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Banks and Banking

CHAPTERS 29-33, R.S.O.

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Banks and Banking

IN CANADA

CHAPS. 29-33, R.S.C.

FOLLOWED BY

ANNOTATIONS

Of the Acts as prepared for the R.S.C.

AND

TABLE OF CASES

AND

COPIOUS INDEX

BY

WALTER EDWIN LEAR,

OF OSGOODE HALL

Compiler of Digest Canadian Case Law, 1901-5. Author
Criminal Code Annotated, and a Work on
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TABLE OF CASES.

*. Unless otherwise noted, the numbers refer to the Annotations of the Bank Act.

*Annotations to Savings Bank Act, c. 30, R. S. C.

†Annotations to Quebec Savings Bank Act, c. 32, R. S. C.

A.

	PAGE
Adams v. Bank of Montreal, (1889) 8 B.C.R. 316.....	91
Allan v. Clarkson, (1870) 17 Gr. 570.....	90
Allen v. Bank of New Brunswick, (1877) 17 N. B. R. 446....	77
Armstrong v. Buchanan, (1903) 35 N. S. R. 352.....	86
Atty.-Gen. of Ont. v. Newman, (1899) 31 O. R. 340.....	95

B.

Bagnell v. Hamilton, (1864) C. L. J. 305.....	128
Bailey v. Jellett, (1884) 9 A. R. 181.....	96
Baines' Case, Central Bank of Canada, (1889) 16 A. R. 237, 37, 130	
Bank of B. N. A. v. Bossuyt, (1907) 15 Man. L. R. 206.....	91
Bank of B. N. A. v. Clarkson, (1889) 19 U. C. C. P. 182.....	86
Bank of Commerce v. Jenkins, (1888) 16 O. R. 215.....	18
Bank of Hamilton v. Donaldson, (1901) 13 Man. L. R. 378. (c. d)	76
Bank of Hamilton v. Halsted, (1896) 27 O. R. 435; (1897) 28	
S. C. R. 235	88, 90
Bank of Hamilton v. Noyes Mfg. Co., (1885) 9 O. R. 631..2 (g)	86
Bank of Liverpool v. Bigelow, (1878) 12 N. S. R. 236..18 (c)	38, 45
Bank of Montreal v. Little, (1870) 17 Gr. 513.....	95
Bank of Montreal v. Sweeny, (1887) 12 A. C. 617.....	45, 52, 74
Bank of Nova Scotia v. Forbes, (183) 16 N. S. R. 295.....	38
Bank of Ontario, In re, (1879) 44 U. C. R. 251.....	36, 46
Bank of Toronto v. Cobourg P. & M. Ry. Co., (1884) 7 O. R. 1	
..... (2)	76
Bank of Toronto v. European Assce. Society, (1870) 14 L. J. C.	
186; (1875) R. L. 57.....	(4) 30
†Bank of Toronto v. Perkins, (1882) 8 S. C. R. 903.....	34
Bank of Toronto v. Perkins, (1882) 8 S. C. R. 603.....	(2) 76
Bank of Toronto v. Wilmot, (1859) 19 U. C. R. 73.....	(4) 30
Bank of Upper Canada v. Baldwin, In re, (1829) Dra. 55.....	56
Bank of Upper Canada v. Covert, (1836) 5 U. C. O. S. 541.. (4)	30
Bank of Upper Canada v. Killaly, (1861) 21 U. C. R. 9.....	80
Bank of Upper Canada v. Widmer, (1832) 2 U. C. O. S. 222 B. 18, 19	
Banque d'Hochelaga v. Merchants Bank, (1895) 10 Man. L. R.	
361	86, 88
Banque de St. Hyacinthe v. Sarrazin, (1872) Q. R. 2 S. C. 96..	91
Banque Nationale v. Lesperance, (1881) 4 L. N. 147.....	(4) 30
Barkwell's Claim, In re Commercial Bank of Manitoba, (1897)	
11 Man. L. R. 494.....	(c. d.) 76
Bathgate v. Merchants Bank, (1888) 5 Man. L. R. 210.....	80
Boulton v. Gzowski, (1898) 20 S. C. R. 54.....	130
*Brown v. Gen. Trust Co., (1900) 32 O. R. 319.....	11
Brown v. Gen. Trust Co., (1900) 32 O. R. 319.....	95

C.

	PAGE
Cameron v. Kerr, (1878) 3 A. R. 30.....	80
Canada Shipping Co.'s Case, Re Central Bank, (1891) 21 O. R. 515	86
Central Bank and Hogg, Re, (1890) 19 O. R. 7..... (a)	43
Central Bank, Baines' Case, (1889) 16 O. R. 237.....	37, 130
Central Bank, Nasmith's Case, (1891) 18 A. R. 209.....	37
Central Bank, Re, (1889) 17 O. R. 574.....	90
Central Bank, Re, (1891) 21 O. R. 515.....	95
Central Bank, Re, Canada Shipping Co.'s Case, (1891) 21 O. R. 515	86
Central Bank, Re, Henderson's Case, (1889) 17 O. R. 100.....	130
Central Bank, Re, Home S. & L. Co.'s Case, (1891) 18 O. R. 489	43 (a), 45, 52, 125
Central Bank, Wells & MacMurphy's Case, (1888) 15 O. R. 611	95, 126
Chatham Banner Co., Re Bank of Montreal's claim, (1901) 2 O. L. R. 672	56
Clinic and Union Bank, In re, (1888) 14 Q. L. R. 289.. 43 (b),	77
Citizens Ins. Co. v. G. T. Ry. Co., (1880) 3 L. N. 312..... (4)	30
City Bank v. Brown, (1852) 2 L. C. R. 246.....	30
Clarkson v. Stirling, (1888) 15 A. R. 234.....	90
Clench v. Consolidated Bank of Canada, (1880) 31 U. C. C. P. 169	96
Cloyes v. Darling, (1884) 16 R. L. 649.....	128
Cockburn v. Sylvester, (1877) 1 A. R. 471	86
Coffee v. Quebec Bank, (1870) 20 U. C. C. P. 555.....	86
Commercial Bank of Manitoba, In re, Barkwell's claim, (1897) 11 Man. L. R. 494..... (c. d.)	76
Commercial Bank v. Bank of Upper Canada, (1859) 7 Gr. 430. (2)	76
Commercial National Bank of Chicago v. Corcoran, (1884) 6 O. R. 527.....	3, 86
Conn v. Merchants Bank, (1879) 30 U. C. C. P. 380.....	126
Conn v. Smith, (1897) 28 O. R. 629.....	90
Court v. Waddell, (1881) 4 L. N. 78.....	125
Crawford v. Cobourg, (1861) 21 U. C. R. 113..... (2)	76

D.

Desrosiers v. Montreal P. & B. Ry. Co., (1883) 6 L. N. 388. (2)	76
Dominion Bank v. Davidson, (1885) 12 A. R. 90.....	86
Dominion Bank v. Knowlton, (1877) 25 Gr. 125.....	29
Dominion Bank v. Oliver, (1889) 17 O. R. 402.....	80
Drake v. Bank of Toronto, (1862) 9 Gr. 116.....	19
Duncan v. Smart, (1874) 35 U. C. R. 532.....	128

E.

Embury v. West, (1888) 15 A. R. 234.....	90
Essex Land & Timber Co., Re Trout's Case, (1891) 21 O. R. 367	(2) 76, 80
Exchange Bank v. Chaplin, (1885) 17 R. L. 246.....	38
Exchange Bank v. City & District Sav. Bank, (1885) 14 R. L. 8.	78
Exchange Bank v. City & District Sav. Bank, (1887) M. L. R. 6 Q. B. 196.....	37, 40
Exchange Bank v. Darling, (1884) 16 R. L. 649.....	38
Exchange Bank v. Fletcher, (1891) 19 S. C. R. 278..... (2)	76
Exchange Bank v. Hall, (1886) M. L. R. 2	400, 126

Table of Cases.

v

	PAGE
Exchange Bank v. Montreal Coffee House, (1886) M. L. R. 2 S.	
C. 141	95, 126
Exchange Bank v. R., (1885) 11 A. C. 157.....	(b) 131

G.

Gibbs v. Dominion Bank, (1879) 30 U. C. C. P. 36.....	86
Gibbs v. Poston, (1866) 16 L. C. R. 257.....	23
Gillies v. Commercial Bank, (1885) 10 Man. L. R. 460.....	80
Gilmour v. Hall, (1886) M. L. R. 2 Q. B. 374.....	22
Goodfellow, Re, Traders Bank v. Goodfellow, (1890) 19 O. R.	
299	86, 89
Grant v. Banque National, (1885) 9 O. R. 411.....	80
Grieve v. Molsons Bank, (1885) 8 O. R. 162.....	30

H.

Hall v. Hatch, (1902) 3 O. L. R. 147.....	(c, d) 76
Halsted v. Bank of Hamilton, (1896) 27 O. R. 435; (1897) 28	
S. C. R. 235.....	88, 90
Hannum v. McRae, (1898) 18 P. R. 185.....	56
Harron v. Yemen, (1883) 3 O. R. 126.....	(b) 81
Henderson v. Bank of Hamilton, (1894) 25 O. R. 641.....	96
Henderson's Case, Re Central Bank, (1889) 17 O. R. 110.....	130
Heneker v. Bank of Montreal, (1895) Q. R. 7 S. C. 257.....	(a) 47
Henry v. Simard, (1866) 16 L. C. R. 273.....	22
Houston v. Merchants Bank of Halifax, (1899) 7 B. C. R. 465;	
(1901) 31 S. C. R. 36.....	88
Hudson v. Banque du Peuple, (1875) 7 R. L. 220.....	46
Hughes v. La Compagnie des Villas Cap Gibraltar, (1889) M.	
L. R. 5 S. C. 129.....	37
*Hunter v. Wallace, (1846) 14 U. C. R. 205.....	11
Hutton v. Federal Bank, (1883) 9 P. R. 568.....	95

I.

Imperial Bank v. Hull, (1901) 4 Terr. L. R. 498.....	86
Insky v. Hochelaga Bank, (1896) Q. R. 10 S. C. 510.....	78
Irwin v. Bank of Montreal, (1876) 38 U. C. R. 375.....	(a) 76

J.

Jacques Cartier Bank v. R., (1895) 25 S. C. R. 84.....	(c, d) 76
Johansen v. Chaplin, (1889) M. L. R. 6 Q. B. 111.....	(2) 76
Jones v. Imperial Bank, (1876) 23 Gr. 262.....	45, (c,d) 76

L.

La Société Permanent l' Iberville v. Rossiter, (1881) 4 L. N.	
269	(c, d) 76
+Langlois and La Caisse d'Economie, (1893) Q. R. 4 S. C. 65..	34
Lawson v. McGeoch, (1893) 20 A. R. 464.....	90
Lee v. Bank B. N. A., (1879) 30 U. C. C. P. 255.....	95
*Lee v. Bank B. N. A., (1879) 30 U. C. C. P. 255.....	11
Llado v. Morgan, (1874) 23 U. C. C. P. 517.....	(g) 2

M.

Mander v. Royal Canadian Bank, (1869) 20 U. C. C. P. 125....	95
Maritime Bank v. R., (1888) 17 S. C. R. 657.....	(b) 131
McBride v. Gore Ins. Co., (1870) 30 U. C. R. 451.....	86
McCracken v. McIntyre, (1877) 1 S. C. R. 509, 527.....	34

	PAGE
McDonald v. Rankin, (1890) M. L. R. 7 S. C. 44....	76 (2), (2) 153
McRoberts v. Steinhoff, (1886) 11 O. R. 369.....	90
Mechanics Bank v. St. Jean, (1879) 9 R. L. 555.....	127
Merchants Bank of Halifax v. Houston, (1901) 31 S. C. R. 361.	80
Merchants Bank of Halifax v. Whidden, (1891) 19 S. C. R. 53.	30
Merchants Bank v. Darveau, (1898) Q. R. 15 S. C. 325.....	(2) 76
Merchants Bank v. Hancock, (1884) 6 O. R. 285.....	86
Merchants Bank v. Monteith, Re Monteith, (1886) 10 O. R. 529.	86
Merchants Bank v. Smith, (1883) 8 S. C. R. 512.....	86
Milloy v. Kerr, (1878) 3 A. R. 350; 8 S. C. R. 474.....	86
Molleur v. Loupret, (1885) 8 L. N. 305.....	153
Molsons Bank v. Beaudry, (1901) Q. R. 11 K. B. 212.....	88
Molsons Bank v. Carscaden, (1892) 8 Man. L. R. 451.....	(2) 76
Molsons Bank v. Girdlestone, (1879) 44 U. C. R. 54.....	86
Molsons Bank v. Kennedy, (1879) 10 R. L. 110.....	(2) 76
Molsons Bank v. Stoddart, (1890) M. L. R. 6 S. C. 18.....	45
Monteith, Re, Merchants Bank v. Monteith, (1886) 10 O. R. 529	86

N.

Nasmith's Case, Central Bank of Canada, (1891) 18 A. R. 209.	37
Nasmith v. Manning, (1881) 5 S. C. R. 417.....	12
North-Western Trans. Co. v. Beatty, (1887) L. R. 12 A. C. 593.	32
Nova Scotia Central Ry. Co. v. Halifax Banking Co., (1892) 21	
S. C. R. 536	(c.d) 76

O.

O'Dell v. Boston and N. S. Coal Co., Ltd., (1897) 29 N. S. R.	
385	19
Ontario Bank v. Chaplin, (1889) M. L. R. 5 Q. B. 497; (1891)	
20 S. C. R. 152	95, 126
Ontario Bank v. Routhier, (1900) 32 O. R. 67.....	95
Ontario Ins. Co. v. Ireland, (1855) 5 U. C. C. P. 139.....	38

P.

Parish of St. Césaire v. McFarlane, (1887) 14 S. C. R. 738. (2)	76
Parker v. McQuesten, (1872) 23 U. C. R. 273.....	(2) 153
Perkins v. Ross, (1880) 6 Q. L. R. 65.....	88
*Perry v. Thorne, (1901) 35 N. B. R. 398.....	11 45
Petry v. Caisse d'Economie de Que., (1891) 19 S. C. R. 713....	53
Peuchen v. Imperial Bank, (1890) 20 O. R. 325.....	86, (3) 89
Préfontaine v. Grenier, (1901) 4 Que. P. R. 21.....	(2) 153
Purdom v. Ont. L. and Debenture Co., (1892) 22 O. R. 597..	(9) 32

R.

R. v. Bank of Montreal, (1886) 1 Ex. C. R. 154.....	(a) 76
R. v. Bank of Montreal, (1905) 10 O. L. R. 117.....	(c, d) 76
R. v. Bank of Upper Canada, (1848) 5 U. C. R. 338.....	(7) 32
R. v. Buntin, (1884) 7 L. N. 228, 395.....	155
R. v. Coté, (1877) 22 L. C. J. 141.....	153
R. v. Gillespie, (1898) 1 Can. C. C. 551.....	(2) 153
R. v. Hincks, (1879) 24 L. C. J. 116.....	153
Radford v. Merchants Bank, (1883) 3 O. R. 529.....	(2) 76
*Reid, In re, (1903) 6 O. L. R. 421.....	11, 45
Rennie v. Que. Bank, (1902) 3 O. L. R. 541.....	(f) 2
Robertson v. Banque d'Hochelega, (1881) 4 L. N. 314.....	38 40
Robertson v. Lajoie, (1878) 22 L. C. J. 169.....	88

	PAGE
†Rolland v. La Caisse d'Economie, (1895) 24 S. C. R. 405....	34
Rolland v. La Caisse d'Economie, (1895) 24 S. C. R. 405.... (2)	76
Ross v. Molsons Bank, (1881) 2 Dor. 82.....	88
Royal Canadian Bank v. Carruthers, (1870) 29 U. C. R. 283..	86
Royal Canadian Bank v. Miller, (1870) 29 U. C. R. 266.....	86
Royal Canadian Bank v. Ross, (1877) 40 U. C. R. 466.....	86
Royal Canadian Bank v. Yates, (1869) 19 U. C. C. P. 439.....	30

S.

St. John Bridge Co. v. Woodward, (1840) 3 N. S. R. 29....	37, 38
Sabourin v. City and D. Sav. Bank, (1903) Q. R. 12 K. B. 380.	95
Sarrazin v. Bank of St. Hyacinthe, (1881) 28 L. C. J. 270.. (2)	76
Seeally v. McCallum, (1862) 9 Gr. 434..... (2)	76
Senecal v. Exchange Bank, (1884) M. L. R. 2 S. C. 107.....	127
Sheratt v. Merchants Bank, (1894) 21 A. R. 473.....	95
Simpson v. Molsons Bank, (1895) A. C. 270.....	52
Sisters of Charity v. Kent, (1904) Q. R. 13 K. B. 483.....	126
Smith v. Bank of N. S., (1882) 8 S. C. R. 558.....	45
Smith v. Walkerville Iron Co., (1896) 23 A. R. 95..... (a)	43
Steinhoff v. Merchants Bank, (1881) 46 U. C. R. 25..... (a)	76
Stewart v. Union Bank, (1888) 15 A. R. 749.....	80
Suter v. Merchants Bank, 1877) 24 Gr. 365.....	90
Springer v. Exchange Bank, (1887) 14 S. C. R. 716.....	30, 56
*Spruce v. Edwards, (1905) 25 Occ. N. 118.....	11, 45

T.

Tempest v. Bertrand, (1901) Q. R. 19 S. C. 365.....	95
Tennant v. Union Bank, (1894) A. C. 46.....	3, 86, (2) 89
Thompson v. Molsons Bank, (1889) 16 S. C. R. 664.....	78, 86
*Thorn v. Perry, (1901) 35 N. B. R. 398.....	11, 45
Todd v. Liverpool Ins. Co., (1870) 20 U. C. C. P. 523.....	86
Toronto Brewing and Malting Co. v. Blakes, (1882) 2 O. R. 175	22
Toronto Gen. Trust Co. v. Central Ont. Ry. Co., (1905) 10 O.	
L. R. 347	(c, d) 76
Traders Bank v. Goodfallow, Re, Goodfallow, (1890) 19 O. R.	
299	86
Trout's Case, Re Essex Land and Timber Co., (1891) 21 O. R.	
367	(2) 76

U.

Union Bank of Halifax v. Spinney, (1907) 38 S. C. R.....	88
Union Bank v. Elliott, (1902) 14 Man. L. R. 187..... (c, d)	76
Union Bank v. Ontario Bank, (1879) 9 R. L. 631..... (a)	76

V.

Voyer v. Richer, (1869) 13 L. C. J. 213.....	95
--	----

W.

Watts v. Wells, (1890) M. L. R. 7 Q. B. 387..... (2)	76
Walsh v. Union Bank, (1879) 5 Q. L. R. 289..... (a)	43
Wentworth v. Smith, (1893) 15 P. R. 372..... (a)	76
West Trans. Co. v. Beatty, (1887) L. R. 12 A. C. 598.....	19
Williams, In re, (1903) 7 O. L. R. 156..... (c, d)	76
Wilson v. Citizens Ins. Co., (1875) 19 L. C. J. 175.....	88
Windsor v. Commercial Bank, (1882) 15 N. S. R. 420.....	60



CHAPTER 29.

An Act respecting Banks and Banking.

SHORT TITLE.

1. This Act may be cited as the Bank Act. 53 V., c. 31, s. 1. Short title.

INTERPRÉTATION.

2. In this Act, unless the context otherwise requires,—
- | | |
|--|---------------------------------|
| (a) 'bank' means any bank to which this Act applies; | Definitions.
'Bank.' |
| (b) 'Minister' means the Minister of Finance and Receiver General; | 'Minister.' |
| (c) 'Association' means the Canadian Bankers' Association, incorporated by the Act passed in the session held in the sixty-third and sixty-fourth years of Her late Majesty's reign, chapter ninety-three, intituled <i>An Act to incorporate the Canadian Bankers' Association</i> ; | 'Association.' |
| (d) 'curator' means any person appointed under the authority of this Act by the Canadian Bankers' Association to supervise the affairs of any bank which has suspended payment in specie or Dominion notes of any of its liabilities as they accrue; | 'Curator.' |
| (e) 'Circulation Fund' means the fund heretofore established and continued by the authority of this Act under the name of the Bank Circulation Redemption Fund; | 'Circulation Fund.' |
| (f) 'goods, wares and merchandise' includes, in addition to the things usually understood thereby, timber, deals, boards, staves, saw-logs and other lumber, petroleum, crude oil, and all agricultural produce and other articles of commerce; | 'Goods, wares and merchandise.' |
| (g) 'warehouse receipt' | 'Warehouse receipt.' |
| (i) means any receipt given by any person for any goods, wares or merchandise in his actual visible and continued possession as bailee thereof in good faith and not as of his own property, and | |
| (ii) includes receipts, given by any person who is the owner or keeper of a harbour, cove, pond, wharf, yard, warehouse, shed, storehouse or other place for the storage of goods, wares or merchandise, for goods, wares and merchandise delivered to him as bailee, and actually in the place or in one or more of the places owned or kept by him, whether such person is engaged in other business or not, and | |

- (iii) includes also receipts given by any person in charge of logs or timber in transit from timber limits or other lands to the place of destination of such logs or timber;
- ' Bill of lading.' (h) 'bill of lading' includes all receipts for goods, wares or merchandise, accompanied by an undertaking to transport the same from the place where they were received to some other place, by any mode of carriage whatever, whether by land or water, or partly by land and partly by water;
- ' Manufacturer.' (i) 'manufacturer' includes manufacturers of logs, timber or lumber, maltsters, distillers, brewers, refiners and producers of petroleum, tanners, curers, packers, canners of meat, pork, fish, fruit or vegetables, and any person who produces by hand, art, process or mechanical means any goods, wares or merchandise;
- ' President.' (j) 'president' does not include an honorary president;
- Public notice, how given. 2. Where by this Act any public notice is required to be given the notice shall, unless otherwise specified, be given by advertisement,—
- (a) in one or more newspapers published at the place where the head office of the bank is situate; and,
- (b) in the *Canada Gazette*. 53 V., c. 31, ss. 2, 54 and 102; 63-64 V., c. 26, ss. 3 and 24; 4-5 E. VII., c. 4, s. 4.

APPLICATION.

General.

To what banks this Act applies.

3. The provisions of this Act apply to the several banks enumerated in schedule A to this Act, and to every bank incorporated after the first day of January, one thousand nine hundred and five, whether this Act is specially mentioned in its Act of incorporation or not, but not to any other bank, except as hereinafter specially provided. 53 V., c. 31, s. 3.

Bank charters continued to July 1st, 1911, as to some particulars.

4. The charters or Acts of incorporation, and any Acts in amendment thereof, of the several banks enumerated in schedule A to this Act are continued in force until the first day of July, one thousand nine hundred and eleven, so far as regards, as to each of such banks,—

- (a) the incorporation and corporate name;
- (b) the amount of the authorized capital stock;
- (c) the amount of each share of such stock; and,
- (d) the chief place of business;

subject to the right of each of such banks to increase or reduce its authorized capital stock in the manner hereinafter provided.

As to other particulars.

2. As to all other particulars this Act shall form and be the charter of each of the said banks until the first day of July, one thousand nine hundred and eleven.

Forfeited or void charters not continued.

3. Nothing in this section shall be deemed to continue in force any charter or Act of incorporation, if, or in so far as it is,

is, under the terms thereof, or under the terms of this Act or of any other Act passed or to be passed, forfeited or rendered void by reason of the non-performance of the conditions of such charter or Act of incorporation, or by reason of insolvency, or for any other reason. 63-64 V., c. 26, s. 6.

Banks in course of winding-up.

5. The provisions of this Act shall continue to apply to the banks named in schedule A to the Bank Act, passed in the fifty-third year of Her late Majesty's reign, chapter thirty-one, and not named in schedule A to this Act, but only in so far as may be necessary to wind up the business of the said banks respectively; and the charters or Acts of incorporation of the said banks, and any Acts in amendment thereof, or any Acts in relation to the said banks now in force, shall respectively continue in force for the purposes of winding-up, and for such purposes only.

2. The sections of this Act enumerated in the next following section shall continue to apply to the Bank of British Columbia, but only in so far as may be necessary to wind up the business of the bank. 63-64 V., c. 26, s. 5.

Act continues to apply for purposes of winding-up.

Bank of British Columbia.

The Bank of British North America.

6. The sections of this Act which apply to the Bank of British North America are sections,—

- one;
- two;
- six;
- seven;
- thirty-nine;
- forty-five;
- fifty-seven to sixty-one, both inclusive;
- sixty-three to one hundred and twenty-four both inclusive;
- one hundred and thirty;
- one hundred and thirty-two to one hundred and fifty-two, both inclusive; and,
- one hundred and fifty-four to one hundred and fifty-seven, both inclusive.

What provisions applicable.

2. The other sections of this Act do not apply to the Bank of British North America. 53 V., c. 31, s. 6; 63-64 V., c. 26, s. 7.

7. For the purposes of the several sections of this Act made applicable to the Bank of British North America the chief office of the Bank of British North America shall be the office of the bank at Montreal in the province of Quebec. 53 V., c. 31, s. 7.

Chief office at Montreal.

INCORPORATION AND ORGANIZATION OF BANKS.

Particulars
of Act of
incorpora-
tion.

8. The capital stock of every bank hereafter incorporated, the name of the bank, the place where its chief office is to be situated, and the name of the provisional directors, shall be declared in the Act of incorporation of every such bank respectively. 53 V., c. 31, s. 9.

Form
thereof.

9. An Act of incorporation of a bank in the form set forth in schedule B to this Act shall be construed to confer upon the bank thereby incorporated all the powers, privileges and immunities, and to subject it to all the liabilities and provisions set forth in this Act. 53 V., c. 31, s. 9.

Capital
stock and
shares.

10. The capital stock of any bank hereafter incorporated shall be not less than five hundred thousand dollars, and shall be divided into shares of one hundred dollars each. 53 V., c. 31, s. 10.

Provisional
directors.

11. The number of provisional directors shall be not less than five.

Tenure.

2. The provisional directors shall hold office until directors are elected by the subscribers to the stock, as hereinafter provided. 53 V., c. 31, s. 11; 4-5 E. VII., c. 4, s. 1.

Opening of
stock books.

12. For the purpose of organizing the bank, the provisional directors may, after giving public notice thereof, cause stock books to be opened, in which shall be recorded the subscriptions of such persons as desire to become shareholders in the bank.

Where.

2. Such books shall be opened at the place where the chief office of the bank is to be situate, and elsewhere, in the discretion of the provisional directors.

How long.

3. Such stock books may be kept open for such time as the provisional directors deem necessary. 53 V., c. 31, s. 12.

First meeting
of sub-
scribers.

13. So soon as a sum not less than five hundred thousand dollars of the capital stock of the bank has been *bona fide* subscribed, and a sum not less than two hundred and fifty thousand dollars thereof has been paid to the Minister, the provisional directors may, by public notice, published for at least four weeks, call a meeting of the subscribers to the said stock, to be held in the place named in the Act of incorporation as the chief place of business of the bank, at such time and at such place therein as set forth in the said notice.

Business
thereat.

2. The subscribers shall at such meeting,—

(a) determine the day upon which the annual general meeting of the bank is to be held; and,

(b) elect such number of directors, duly qualified under this Act, not less than five, as they think necessary.

Tenure of
directors.

3. Such directors shall hold office until the annual general meeting in the year next succeeding their election.

4. Upon the election of directors as aforesaid the functions of the provisional directors shall cease. 53 V., c. 31, s. 13; 4-5 E. VII., c. 4, s. 2. Provisional directors cease.

14. The bank shall not issue notes or commence the business of banking until it has obtained from the Treasury Board a certificate permitting it to do so. Permission of Treasury Board to commence business.

2. No application for such certificate shall be made until directors have been elected by the subscribers to the stock in the manner hereinbefore provided. 53 V., c. 31, s. 14. No certificate until directors elected.

15. No certificate shall be given by the Treasury Board until it has been shown to the satisfaction of the Board, by affidavit or otherwise, that all the requirements of this Act and of the special Act of incorporation of the bank, as to the payment required to be made to the Minister, the election of directors, deposit for security for note issue, or other preliminaries, have been complied with, and that the sum so paid is then held by the Minister. When certificate may be granted.

2. No such certificate shall be given except within one year from the passing of the Act of incorporation of the bank applying for the said certificate. 53 V., c. 31, s. 15. Within one year.

16. If the bank does not obtain a certificate from the Treasury Board within one year from the time of the passing of its Act of incorporation, all the rights, powers and privileges conferred on the bank by its Act of incorporation shall thereupon cease and determine, and be of no force or effect whatever. 53 V., c. 31, s. 16. If certificate not granted.
Powers to cease.

17. Upon the issue of the certificate in manner hereinbefore provided, the Minister shall forthwith pay to the bank the amount of money so deposited with him as aforesaid, without interest, after deducting therefrom the sum of five thousand dollars required to be deposited under the provisions of this Act for the securing of the notes issued by the bank. Deposit, how disposed of if certificate granted.

2. In case no certificate is issued by the Treasury Board within the time limited for the issue thereof, the amount so deposited shall be returned to the person depositing the same. If certificate not granted.

3. In no case shall the Minister be under any obligation to see to the proper application in any way of the amount so returned. 53 V., c. 31, s. 17. Minister not bound.

INTERNAL REGULATIONS.

18. The shareholders of the bank may regulate, by by-law, the following matters incident to the management and administration of the affairs of the bank, that is to say:— By-laws.

(a) The day upon which the annual general meeting of the shareholders for the election of directors shall be held;

- (b) The record to be kept of proxies, and the time, not exceeding thirty days, within which proxies must be produced and recorded prior to a meeting in order to entitle the holder to vote thereon;
- (c) The number of the directors, which shall be not less than five, and the quorum thereof, which shall be not less than three;
- (d) Subject to the provisions hereinafter contained, the qualifications of directors;
- (e) The method of filling vacancies in the board of directors, whenever the same occur during each year;
- (f) The time and proceedings for the election of directors, in case of a failure of any election on the day appointed for it;
- (g) The remuneration of the president, vice-president and other directors; and,
- (h) The amount of discounts or loans which may be made to directors, either jointly or severally, or to any one firm or person, or to any shareholder, or to corporations.

Guarantee
and pension
funds.

2. The shareholders may authorize the directors to establish guarantee and pension funds for the officers and employees of the bank and their families, and to contribute thereto out of the funds of the bank.

Existing by-
laws con-
tinued.

3. Until it is otherwise prescribed by by-law under this section, the by-laws of the bank on any matter which may be regulated by by-law under this section shall remain in force, except as to any provision fixing the qualification of directors at an amount less than that prescribed by this Act. 53 V., c. 31, s. 18; 4-5 E. VII., c. 4, s. 3.

Exception.

Board of
directors.

19. The stock, property, affairs and concerns of the bank shall be managed by a board of directors, who shall be elected annually in manner hereinafter provided, and shall be eligible for re-election. 53 V., c. 31, s. 19.

Qualifica-
tions.

20. Each director shall,—

- (a) when the paid-up capital stock of the bank is one million dollars or less, hold stock of the bank on which not less than three thousand dollars have been paid up;
- (b) when the paid-up capital stock of the bank is over one million dollars and does not exceed three million dollars, hold stock of the bank on which not less than four thousand dollars have been paid up; and,
- (c) when the paid-up capital stock of the bank exceeds three million dollars, hold stock of the bank on which not less than five thousand dollars have been paid up.

Idem.

2. No person shall be elected or continue to be a director unless he holds stock paid up to the amount required by this Act, or such greater amount as is required by any by-law in that behalf.

3. A majority of the directors shall be natural born or naturalized subjects of His Majesty. 53 V., c. 31, ss. 18 and 19. Majority to be British subjects.

21. The directors shall be elected by the shareholders on such day in each year as is appointed by the charter or by any by-law of the bank, and at such time of the day as the directors appoint. Election of directors.

2. The election shall take place at the head office of the bank. At head office.

3. Public notice of the election shall be given by the directors by publishing such notice, for at least four weeks previously to the time of holding the election, in a newspaper published at the place where the head office of the bank is situate. 53 V., c. 31, s. 19. Notice.

22. The persons, to the number authorized to be elected, who have the greatest number of votes at any election, shall be directors. 53 V., c. 31, s. 19. Who shall be directors.

23. If it happens at any election that two or more persons have an equal number of votes, and the election or non-election of one or more of such persons as a director or directors depends on such equality, then the directors who have a greater number of votes, or the majority of them, shall, in order to complete the full number of directors, determine which of the said persons so having an equal number of votes shall be a director or directors. 53 V., c. 31, s. 19. Provision in case of equality of votes.

24. The directors, as soon as may be after their election, shall proceed to elect, by ballot, two of their number to be president and vice-president respectively. Election of president and vice-president.

2. The directors may also elect by ballot one of their number to be honorary president. 53 V., c. 31, s. 19; 4-5 E. VII., c. 4, s. 4. Honorary president.

25. If a vacancy occurs in the board of directors the vacancy shall be filled in the manner provided by the by-laws: Provided that, if the vacancy is not filled, the acts of a quorum of the remaining directors shall not be thereby invalidated. 53 V., c. 31, s. 19. Vacancies, how filled. Proviso.

26. If a vacancy occurs in the office of the president or vice-president, the directors shall, from among themselves, elect a president or vice-president, who shall continue in office for the remainder of the year. 53 V., c. 31, s. 19. Vacancy of president or vice-president.

27. If an election of directors is not made on the day appointed for that purpose, such election may take place on any other day, according to the by-laws made by the shareholders in that behalf. Failure of election.

2. The directors in office on the day appointed for the election of directors shall remain in office until a new election is made. 53 V., c. 31, s. 20.

Meetings of directors.

28. The president, or in his absence the vice-president, shall preside at all meetings of the directors.

Idem.

2. If at any meeting of the directors both president and vice-president are absent, one of the directors present, chosen to act *pro tempore*, shall preside.

Voting.

3. The president, vice-president or president *pro tempore*, so presiding, shall vote as a director, and shall, if there is an equal division on any question, also have a casting vote. 53 V., c. 31, s. 21.

General powers of directors.

29. The directors may make by-laws and regulations, not repugnant to the provisions of this Act or to the laws of Canada, with respect to,—

- (a) the management and disposition of the stock, property, affairs and concerns of the bank;
- (b) the duties and conduct of the officers, clerks and servants employed therein; and,
- (c) all such other matters as appertain to the business of a bank.

Existing by-laws continued.

2. All by-laws of the bank heretofore lawfully made and now in force with regard to any matter respecting which the directors may make by-laws under this section, including any by-laws for the establishing of guarantee and pension funds for the employees of the bank, shall remain in force until they are repealed or altered by other by-laws made under this Act. 53 V., c. 31, s. 22.

Appointment of officers.

30. The directors may appoint as many officers, clerks and servants as they consider necessary for the carrying on of the business of the bank.

Branches.

2. The directors may also appoint a director or directors for any branch of the bank.

Salaries.

3. Such officers, clerks and servants may be paid such salaries and allowances as the directors consider necessary.

Security.

4. The directors shall, before permitting any cashier, officer, clerk or servant of the bank to enter upon the duties of his office, require him to give a bond, guarantee, or other security to the satisfaction of the directors, for the due and faithful performance of his duties. 53 V., c. 31, s. 23.

Special general meeting.

31. A special general meeting of the shareholders of the bank may be called at any time by,—

- (a) the directors of the bank or any four of them; or,
- (b) any number not less than twenty-five of the shareholders, acting by themselves or by their proxies, who are together proprietors of at least one-tenth of the paid-up capital stock of the bank.

2. Such directors or shareholders shall give six weeks' previous public notice, specifying therein the object of such meeting.

3. Such meeting shall be held at the usual place of meeting of the shareholders.

4. If the object of the special general meeting is to consider the proposed removal, for maladministration or other specified and apparently just cause, of the president or vice-president, or of a director of the bank, and if a majority of the votes of the shareholders at the meeting is given for such removal, a director to replace him shall be elected or appointed in the manner provided by the by-laws of the bank, or, if there are no by-laws providing therefor, by the shareholders at the meeting.

Removal of president, vice-president or director.

Another to replace.

5. If it is the president or vice-president who is removed, his office shall be filled by the directors in the manner provided in case of a vacancy occurring in the office of president or vice-president. 53 V., c. 31, s. 24.

Choosing another president or vice-president.

32. Every shareholder shall, on all occasions on which the votes of the shareholders are taken, have one vote for each share held by him for at least thirty days before the time of meeting.

One vote for each share.

2. In all cases when the votes of the shareholders are taken, the voting shall be by ballot.

Ballot.

3. All questions proposed for the consideration of the shareholders shall be determined by a majority of the votes of the shareholders present in person or represented by proxy.

Majority to determine.

4. The chairman elected to preside at any meeting of the shareholders shall vote as a shareholder only, unless there is a tie, in which case he shall, except as to the election of a director, have a casting vote.

Casting vote.

5. If two or more persons are joint holders of shares, any one of the joint holders may be empowered, by letter of attorney from the other joint holder or holders, or a majority of them, to represent the said shares, and to vote accordingly.

As to joint holders of shares.

6. Shareholders may vote by proxy, but no person other than a shareholder eligible to vote shall be permitted to vote or act as proxy.

Proxies.

7. No manager, cashier, clerk or other subordinate officer of the bank shall vote either in person or by proxy, or hold a proxy for the purpose of voting.

Officer not to vote.

8. No appointment of a proxy to vote at any meeting of the shareholders of the bank shall be valid for that purpose, unless it has been made or renewed in writing within the two years last preceding the time of such meeting.

Renewal of proxies.

9. No shareholder shall vote, either in person or by proxy, on any question proposed for the consideration of the shareholders of the bank at any meeting of the shareholders, or in any case in which the votes of the shareholders of the bank

Calls must be paid before voting.

335

are

are taken, unless he has paid all calls made by the directors which are then due and payable. 53 V., c. 31, s. 25.

CAPITAL STOCK.

Increase **33.** The capital stock of the bank may be increased, from time to time, by such percentage, or by such amount, as is determined upon by by-law passed by the shareholders, at the annual general meeting, or at any special general meeting called for the purpose.

By-law. 2. No such by-law shall come into operation, or be of any force or effect, unless and until a certificate approving thereof has been issued by the Treasury Board.

Approval of Treasury Board. 3. No such certificate shall be issued by the Treasury Board unless application therefor is made within three months from the time of the passing of the by-law, nor unless it appears to the satisfaction of the Treasury Board that a copy of the by-law, together with notice of intention to apply for the certificate, has been published for at least four weeks in the *Canada Gazette*, and in one or more newspapers published in the place where the chief office or place of business of the bank is situate.

Conditions for approval. 4. Nothing herein contained shall be construed to prevent the Treasury Board from refusing to issue such certificate if it thinks best so to do. 53 V., c. 31, s. 26.

Allotment. **34.** Any of the original unsubscribed capital stock, or of the increased stock of the bank, shall, when the directors so determine, be allotted to the then shareholders of the bank *pro rata*, and at such rate as is fixed by the directors: Provided that,—

- (a) no fraction of a share shall be so allotted; and,
- (b) in no case shall a rate be fixed by the directors, which will make the premium, if any, paid or payable on the stock so allotted, exceed the percentage which the reserve fund of the bank then bears to the paid-up capital stock thereof.

To the public. 2. Any of such allotted stock which is not taken up by the shareholder to whom the allotment has been made, within six months from the time when notice of the allotment was mailed to his address, or which he declines to accept, may be offered for subscription to the public, in such manner and on such terms as the directors prescribe. 53 V., c. 31, s. 27.

Reduction. **35.** The capital stock of the bank may be reduced by by-law passed by the shareholders at the annual general meeting, or at a special general meeting called for the purpose.

Approval of Treasury Board. 2. No such by-law shall come into operation or be of force or effect until a certificate approving thereof has been issued by the Treasury Board.

Conditions for approval. 3. No such certificate shall be issued by the Treasury Board unless application therefor is made within three months from the

the time of the passing of the by-law, nor unless it appears to the satisfaction of the Board that,—

(a) the shareholders voting for the by-law represent a majority in value of all the shares then issued by the bank; and,

(b) a copy of the by-law, together with notice of intention to apply to the Treasury Board for the issue of a certificate approving thereof, has been published for at least four weeks in the *Canada Gazette*, and in one or more newspapers published in the place where the chief office or place of business of the bank is situate.

4. Nothing herein contained shall be construed to prevent the Treasury Board from refusing to issue the certificate if it thinks best so to do. Treasury Board may refuse.

5. In addition to evidence of the passing of the by-law, and of the publication thereof in the manner in this section provided, statements showing,— Statements to be submitted.

(a) the amount of stock issued;

(b) the number of shareholders represented at the meeting at which the by-law passed;

(c) the amount of stock held by each such shareholder;

(d) the number of shareholders who voted for the by-law;

(e) the amount of stock held by each of such last mentioned shareholders;

(f) the assets and liabilities of the bank in full; and,

(g) the reasons and causes why the reduction is sought;

shall be laid before the Treasury Board at the time of the application for the issue of a certificate approving the by-law. To Treasury Board.

6. The passing of the by-law, and any reduction of the capital stock of the bank thereunder, shall not in any way diminish or interfere with the liability of the shareholders of the bank to the creditors thereof at the time of the issue of the certificate approving the by-law. Not to affect liability of shareholders.

7. If in any case legislation is sought to sanction any reduction of the capital stock of any bank, a copy of the by-law or resolution passed by the shareholders in regard thereto, together with statements similar to those by this section required to be laid before the Treasury Board, shall, at least one month prior to the introduction into Parliament of the Bill relating to such reduction, be filed with the Minister. If legislation is asked to sanction reduction.

8. The capital shall not be reduced below the amount of two hundred and fifty thousand dollars of paid-up stock. Limit of reduction. 53 V., c. 31, s. 28.

SHARES AND CALLS.

36. The shares of the capital stock of the bank shall be personal property. Shares personalty.

2. Books of subscription may be opened at the chief place of business of the bank, or at such of its branches, or at such place Books of subscription.

or places in the United Kingdom or in any of the British colonies or possessions, as the directors prescribe.

Transfers.

3. The shares shall be assignable and transferable at any of the places aforesaid, according to such forms and subject to such rules and regulations as the directors prescribe.

Dividends.

4. The dividends accruing upon any shares of the capital stock of the bank may be made payable at any of the places aforesaid.

Agents.

5. The directors may appoint such agents in the United Kingdom, or in any of the British colonies or possessions, for the purposes of this section, as they deem necessary. 53 V., c. 31, s. 29.

Payment of shares.

37. The shares of the capital stock shall be paid in by such instalments and at such times and places as the directors appoint.

Cancellation for non-payment.

2. The directors may cancel any subscription for any share, unless a sum equal to ten per centum at least on the amount subscribed for is actually paid at or within thirty days after the time of subscribing.

Not to relieve if bank insolvent.

3. Such cancellation shall not, in the event of insolvency, relieve the subscriber as hereinafter provided, from his liability to creditors. 53 V., c. 31, s. 30.

Calls on shares.

38. The directors may make such calls of money from the several shareholders for the time being, upon the shares subscribed for by them respectively, as they find necessary.

Intervals for calls.

2. Such calls shall be made at intervals of not less than thirty days.

Notice.

3. Notice of any such call shall be given at least thirty days prior to the day on which the call is payable.

Limitation.

4. No such call shall exceed ten per centum of each share subscribed. 53 V., c. 31, s. 31.

Capital lost to be called for.

39. If any part of the paid-up capital is lost the directors shall, if all the subscribed stock is not paid up, forthwith make calls upon the shareholders to an amount equivalent to the loss: Provided that all net profits shall be applied to make good such loss.

Returns to mention.

2. Any such loss of capital and the calls, if any made in respect thereof, shall be mentioned in the next return made by the bank to the Minister. 53 V., c. 31, s. 48.

Recovery of calls.

40. In case of the non-payment of any call, the directors may, in the corporate name of the bank, sue for, recover, collect and get in any such call, or may cause and declare the

Forfeiture.

shares in respect of which any such call is made to be forfeited to the bank. 53 V., c. 31, s. 32.

Fine for failure to pay call.

41. If any shareholder refuses or neglects to pay any instalment upon his shares of the capital stock at the time appointed

ed therefor, such shareholder shall incur a penalty, to the use of the bank, of a sum of money equal to ten per centum of the amount of such shares.

2. If the directors declare any shares to be forfeited to the bank they shall, within six months thereafter, without any previous formality, other than thirty days' public notice of their intention so to do, sell at public auction the said shares, or so many of the said shares as shall, after deducting the reasonable expenses of the sale, yield a sum of money sufficient to pay the unpaid instalments due on the remainder of the said shares, and the amount of penalties incurred upon the whole.

Sale of forfeited shares.

3. The president or vice-president, manager or cashier of the bank shall execute the transfer to the purchaser of the shares so sold; and such transfer shall be as valid and effectual in law as if it had been executed by the original holder of the shares thereby transferred.

Transfer, how executed.

4. The directors, or the shareholders at a general meeting, may, notwithstanding anything in this section contained, remit, either in whole or in part, and conditionally or unconditionally, any forfeiture or penalty incurred by the non-payment of instalments as aforesaid. 53 V., c. 31, s. 33.

Remission of forfeiture or penalty.

42. In any action brought to recover any money due on any call, it shall not be necessary to set forth the special matter in the declaration or statement of claim, but it shall be sufficient to allege that the defendant is the holder of one share or more, as the case may be, in the capital stock of the bank, and that he is indebted to the bank for a call or calls upon such share or shares, in the sum to which the call or calls amount, as the case may be, stating the amount and number of the calls.

Recovery by action.

Allegations.

2. It shall not be necessary, in any such action, to prove the appointment of the directors. 53 V., c. 31, s. 34.

Proof.

TRANSFER AND TRANSMISSION OF SHARES.

43. No assignment or transfer of the shares of the capital stock of the bank shall be valid unless,—

Conditions for transfer of shares.

(a) made, registered and accepted by the person to whom the transfer is made in a book or books kept for that purpose; and,

(b) the person making the assignment or transfer has, if required by the bank, previously discharged all his debts or liabilities to the bank which exceed in amount the remaining stock, if any, belonging to such person, valued at the then current rate.

2. No fractional part of a share, or less than a whole share, shall be assignable or transferable. 53 V., c. 31, s. 35.

Fraction of share not transferable.

44. A list of all transfers of shares registered each day in the books of the bank, showing, in each case, the parties to such

List of transfers.

transfers and the number of shares transferred, shall be made up at the end of each day.

For inspection.

2. Such lists shall be kept at the chief place of business of the bank, for the inspection of its shareholders. 53 V., c. 31, s. 36.

Requirements for valid transfer.

45. All sales or transfers of shares, and all contracts and agreements in respect thereof, hereafter made or purporting to be made, shall be null and void, unless the person making the sale or transfer, or the person in whose name or behalf the sale or transfer is made, at the time of the sale or transfer,—

- (a) is the registered owner in the books of the bank of the share or shares so sold or transferred, or intended or purporting to be so sold or transferred; or,
- (b) has the registered owner's assent to the sale.

Contract to state number.

2. The distinguishing number or numbers, if any, of such share or shares shall be designated in the contract of agreement of sale or transfer.

Purchasers without notice.

3. Notwithstanding anything in this section contained, the rights and remedies under any contract of sale, which does not comply with the conditions and requirements in this section mentioned, of any purchaser who has no knowledge of such non-compliance, are hereby saved. 53 V., c. 31, s. 37.

Sale of shares under execution.

46. When any share of the capital stock has been sold under a writ of execution, the officer by whom the writ was executed shall, within thirty days after the sale, leave with the bank an attested copy of the writ, with the certificate of such officer endorsed thereon, certifying to whom the sale has been made.

Transfer, how executed.

2. The president, vice-president, manager or cashier of the bank shall execute the transfer of the share so sold to the purchaser, but not until after all debts and liabilities to the bank of the holder of the share, and all liens in favour of the bank existing thereon, have been discharged as by this Act provided.

Validity.

3. Such transfer shall be to all intents and purposes as valid and effectual in law as if it had been executed by the holder of the said share. 53 V., c. 31, s. 38.

Transmission of shares.

47. If the interest in any share in the capital stock of any bank is transmitted by or in consequence of,—

- (a) the death, bankruptcy, or insolvency of any shareholder; or,
- (b) the marriage of a female shareholder; or,
- (c) any lawful means, other than a transfer according to the provisions of this Act;

How authenticated.

the transmission shall be authenticated by a declaration in writing, as hereinafter mentioned, or in such other manner as the directors of the bank require.

2. Every such declaration shall distinctly state the manner in which and the person to whom the share has been transmitted, and shall be made and signed by such person. **Declaration.**

3. The person making and signing the declaration shall acknowledge the same before a judge of a court of record, or before the mayor, provost or chief magistrate of a city, town, borough or other place, or before a notary public, where the same is made and signed. **Acknowledgment.**

4. Every declaration so signed and acknowledged shall be left with the cashier, manager, or other officer or agent of the bank, who shall thereupon enter the name of the person entitled under the transmission in the register of shareholders. **To be left with bank.**

5. Until the transmission has been so authenticated, no person claiming by virtue thereof shall be entitled to participate in the profits of the bank, or to vote in respect of any such share of the capital stock. 53 V., c. 31, s. 39. **Exercise of rights as shareholder.**

48. If the transmission of any share of the capital stock has taken place by virtue of the marriage of a female shareholder, the declaration shall be accompanied by a copy of the register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share, and shall be made and signed by such female shareholder and her husband. **Transmission by marriage of female shareholder. Declaration.**

2. The declaration may include a statement to the effect that the share transmitted is the separate property and under the sole control of the wife, and that she may, without requiring the consent or authority of her husband, receive and grant receipts for the dividends and profits accruing in respect thereof, and dispose of and transfer the share itself. **If separate property of wife.**

3. The declaration shall be binding upon the bank and persons making the same, until the said persons see fit to revoke it by a written notice to the bank to that effect. **Revocation.**

4. The omission of a statement in any such declaration that the wife making the declaration is duly authorized by her husband to make the same shall not invalidate the declaration. 53 V., c. 31, s. 40. **Omission not to invalidate.**

49. Every such declaration and instrument as are by the last two preceding sections required to perfect the transmission of a share in the bank shall, if made in any country other than Canada, the United Kingdom or a British colony,— **Authentication of declaration, etc., in certain cases.**

(a) be further authenticated by the clerk of a court of record under the seal of the court, or by the British consul or vice-consul, or other accredited representative of His Majesty's Government in the country where the declaration or instrument is made; or,

(b) be made directly before such British consul, vice-consul or other accredited representative.

Further
evidence.

2. The directors, cashier or other officer or agent of the bank may require corroborative evidence of any fact alleged in any such declaration. 53 V., c. 31, s. 39.

Transmis-
sion by will
or intestacy.

50. If the transmission has taken place by virtue of any testamentary instrument, or by intestacy, the probate of the will, or the letters of administration, or act of curatorship or tutorship, or an official extract therefrom, shall, together with the declaration, be produced and left with the cashier or other officer or agent of the bank.

Entry.

2. The cashier or other officer or agent shall thereupon enter in the register of shareholders the name of the person entitled under the transmission. 53 V., c. 31, s. 41.

Transmission
by decease.)

51. If the transmission of any share of the capital stock has taken place by virtue of the decease of any shareholder, the production to the directors and the deposit with them of,—

(a) any authenticated copy of the probate of the will of the deceased shareholder, or of letters of administration of his estate, or of letters of verification of heirship, or of the act of curatorship or tutorship, granted by any court in Canada having power to grant the same, or by any court or authority in England, Wales, Ireland, or any British colony, or of any testament, testamentary or testamentary dative expedite in Scotland; or,

(b) an authentic notarial copy of the will of the deceased shareholder, if such will is in notarial form according to the law of the province of Quebec; or,

(c) if the deceased shareholder died out of His Majesty's dominions, any authenticated copy of the probate of his will or letters of administration of his property, or other document of like import, granted by any court or authority having the requisite power in such matters;

shall be sufficient justification and authority to the directors for paying any dividend, or for transferring or authorizing the transfer of any share, in pursuance of and in conformity to the probate, letters of administration, or other such document as aforesaid. 53 V., c. 31, s. 42.

SHARES SUBJECT TO TRUSTS.

Bank not
bound to see
to trusts.

52. The bank shall not be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any share of its stock is subject.

Receipt.

2. The receipt of the person in whose name any such share stands in the books of the bank, or, if it stands in the names of more persons than one, the receipt of one of such persons, shall be a sufficient discharge to the bank for any dividend or any other sum of money payable in respect of such share, unless, previously to such payment, express notice to the contrary has been given to the bank.

3. The bank shall not be bound to see to the application of the money paid upon such receipt, whether given by one of such persons or all of them. 53 V., c. 31, s. 43. Bank not bound.

53. No person holding stock in the bank as executor, administrator, guardian, trustee, tutor or curator of or for any estate, trust or person named in the books of the bank as being so represented by him, shall be personally subject to any liability as a shareholder; but the estate and funds in his hands shall be liable in like manner and to the same extent as the testator, intestate, ward or person interested in such estate and funds would be, if living and competent to hold the stock in his own name. Executor, etc., not personally liable as shareholders.

2. If the trust is for a living person, such person shall also himself be liable as a shareholder. Cestui que trust liable.

3. If the estate, trust or person so represented is not so named in the books of the bank, the executor, administrator, guardian, trustee, tutor or curator shall be personally liable in respect of the stock, as if he held it in his own name as owner thereof. 63-64 V., c. 26, s. 8. Executor, etc., liable if trust not named.

ANNUAL STATEMENT AND INSPECTION.

54. At every annual meeting of the shareholders for the election of directors, the out-going directors shall submit a clear and full statement of the affairs of the bank, exhibiting, on the one hand, the liabilities of or the debts due by the bank, and, on the other hand, the assets and resources thereof. Statement to be laid before annual meeting.

2. The statement shall show, on the one part,— Liabilities.

- (a) the amount of the capital stock paid in;
- (b) the amount of the notes of the bank in circulation;
- (c) the net profits made;
- (d) the balances due to other banks; and,
- (e) the cash deposited in the bank, distinguishing deposits bearing interest from those not bearing interest.

3. The statement shall show, on the other part,— Assets.

- (a) the amount of the current coin, the gold and silver bullion and the Dominion notes held by the bank;
- (b) the balances due to the bank from other banks;
- (c) the value of the real and other property of the bank; and,
- (d) the amount of debts owing to the bank, including and particularizing the amounts so owing upon bills of exchange, discounted notes, mortgages and other securities.

4. The statement shall also exhibit,— Other particulars.

- (a) the rate and amount of the last dividend declared by the directors;
- (b) the amount of reserved profits at the date of such statement; and,

(c) the amount of debts due to the bank, overdue and not paid, with an estimate of the loss which will probably accrue thereon. 53 V., c. 31, s. 45.

Further statements as required by by-law.

55. The directors shall also submit to the shareholders such further statements of the affairs of the bank, other than statements with reference to the account of any person dealing with the bank, as the shareholders require by by-law passed at the annual general meeting, or at any special general meeting of the shareholders called for the purpose.

When to be submitted.

2. The statements so required shall be submitted at the annual general meeting, or at any special general meeting called for the purpose, or at such time and in such manner as is set forth in the by-law of the shareholders requiring such statements. 63-64 V., c. 26, s. 9.

Inspection of books.

56. The books, correspondence and funds of the bank shall, at all times, be subject to the inspection of the directors.

Customer's accounts.

2. No person, who is not a director, shall be allowed to inspect the account of any person dealing with the bank. 53 V., c. 31, s. 46.

DIVIDENDS.

Quarterly or half yearly.

57. The directors of the bank shall, subject to the provisions of this Act, declare quarterly or half yearly dividends of so much of the profits of the bank as to the majority of them seems advisable.

Notice.

2. The directors shall give at least thirty days' public notice of the payment of such dividends previously to the date fixed for such payment.

Books closed.

3. The directors may close the transfer books during a certain time, not exceeding fifteen days, before the payment of each dividend. 53 V., c. 31, s. 47.

Dividend not to impair capital. Directors liable for such dividend.

58. No dividend or bonus shall ever be declared so as to impair the paid-up capital of the bank.

2. The directors who knowingly and wilfully concur in the declaration or making payable of any dividend or bonus, whereby the paid-up capital of the bank is impaired, shall be jointly and severally liable for the amount of such dividend or bonus, as a debt due by them to the bank. 53 V., c. 31, s. 48.

Dividend limited unless there is a certain reserve.

59. No division of profits, either by way of dividends or bonus, or both combined, or in any other way, exceeding the rate of eight per centum per annum, shall be made by the bank, unless, after making the same, the bank has a rest or reserve fund, equal to at least thirty per centum of its paid-up capital after deducting all bad and doubtful debts. 53 V., c. 31, s. 49.

CASH RESERVES.

60. The bank shall hold not less than forty per centum of its cash reserves in Dominion notes.

Forty per centum in Dominion notes.
Supply of Dominion notes.

2. The Minister shall make such arrangements as are necessary for ensuring the delivery of Dominion notes to any bank, in exchange for an equivalent amount of specie, at the several offices at which Dominion notes are redeemable, in the cities of Toronto, Montreal, Halifax, St. John, Winnipeg, Victoria and Charlottetown, respectively.

3. Such notes shall be redeemable at the office for redemption of Dominion notes in the place where the specie is given in exchange. 53 V., c. 31, s. 50.

Redemption.

THE ISSUE AND CIRCULATION OF NOTES.

61. The bank may issue and re-issue notes payable to bearer on demand and intended for circulation: Provided that,—

Authority for.
Proviso.

(a) the bank shall not, during any period of suspension of payment of its liabilities, issue or re-issue any such notes; and,

(b) if, after any such suspension, the bank resumes business without the consent in writing of the curator, hereinafter provided for, it shall not issue or re-issue any of such notes until authorized by the Treasury Board so to do.

2. No such note shall be for a sum less than five dollars, or for any sum which is not a multiple of five dollars.

\$5. or multiples thereof.

3. The total amount of such notes, in circulation at any time, shall not exceed the amount of the unimpaired paid-up capital of the bank.

Amount limited.

4. Notwithstanding anything in this section contained the total amount of such notes of the Bank of British North America in circulation at any time shall not exceed seventy-five per centum of the unimpaired paid-up capital of the Bank: Provided that,—

Bank of British North America.

(a) the Bank may issue such notes in excess of the said seventy-five per centum upon depositing with the Minister, in respect of the excess, in cash or bonds of the Dominion of Canada, an amount equal to the excess; and the cash or bonds so deposited shall, in the event of the suspension of the Bank, be available by the Minister for the redemption of the notes issued in excess as aforesaid; and,

(b) the total amount of such notes of the Bank in circulation at any time shall in no case exceed its unimpaired paid-up capital.

5. All notes heretofore issued or re-issued by any bank, and now in circulation, which are for a sum less than five dollars, or for a sum which is not a multiple of five dollars, shall be called in and cancelled as soon as practicable. 53 V., c. 31, s. 51; 63-64 V., c. 26, s. 10.

Notes under \$5 or not in multiples of \$5 to be called in.

Note issue
at agency in
British pos-
session other
than Canada.

62. Notwithstanding the provisions of the last preceding section any bank may issue and re-issue, at any office or agency of the bank in any British colony or possession other than Canada, notes of the bank payable to bearer on demand and intended for circulation in such colony or possession, for the sum of one pound sterling each, or for any multiple of such sum, or for the sum of five dollars each, or for any multiple of such sum, of the dollars in commercial use in such colony or possession, if the issue or re-issue of such notes is not forbidden by the laws of such colony or possession.

Governor in
Council to
fix rate for
circulation.

2. No issue of notes of the denomination of five such dollars, or any multiple thereof, shall be made in any such British colony or possession unless nor until the Governor in Council, on the report of the Treasury Board, determines the rate, in Canadian currency, at which such notes shall be circulated as forming part of the total amount of the notes in circulation within the meaning of the last preceding section.

Redemption.

3. The notes so issued shall be redeemable at par at any office or agency of the bank in the colony or possession in which they are issued for circulation, and not elsewhere, except as in this section specially provided; and the place of redemption of such notes shall be legibly printed or stamped across the face of each note so issued.

Redemption
if agency is
abolished.

4. In the event of the bank ceasing to have an office or agency in any such British colony or possession, all notes issued in such colony or possession under the provisions of this section shall become payable and redeemable at the rate of four dollars and eighty-six and two-thirds cents per pound sterling, or, in the case of the issue of notes, of the denomination of five dollars, or any multiple thereof, of the dollars in commercial use in such colony or possession, at the rate established by the Governor in Council as required by this section, in the same manner as notes of the bank issued in Canada are payable and redeemable.

Total
amount of
circulation.

5. The amount of the notes at any time in circulation in any such colony or possession, issued under the provisions of this section, shall, at the rate mentioned in the last preceding subsection, form part of the total amount of the notes in circulation within the meaning of the last preceding section, and, except as herein otherwise specially provided, shall be subject to all the provisions of this Act.

No re-issue
in Canada.

6. No notes issued for circulation in a British colony or possession other than Canada shall be re-issued in Canada.

Section
limited.

7. Nothing in this section contained shall be construed to authorize any bank,—

(a) to increase the total amount of its notes in circulation in Canada and elsewhere beyond the limit fixed by the last preceding section; or,

(b) to issue or re-issue in Canada notes payable to bearer on demand, and intended for circulation, for a sum less than five dollars, or for a sum which is not a multiple of five dollars. 4 E. VII., c. 3, ss. 1, 2, 3 and 4.

63. The bank shall not pledge, assign, or hypothecate its notes; and no advance or loan made on the security of the notes of a bank shall be recoverable from the bank or its assets. Pledge, etc., of notes prohibited.
53 V., c. 31, s. 52.

64. The moneys heretofore paid to and now deposited with the Minister by the banks to which this Act applies, constituting the fund known as the Bank Circulation Redemption Fund, shall continue to be held by the Minister for the purposes and subject to the provisions in this section mentioned and contained. Bank circulation redemption fund continued.

2. The Minister shall, upon the issue of a certificate under this Act authorizing a bank to issue notes and commence the business of banking, retain, out of any moneys of such bank then in his possession, the sum of five thousand dollars, which sum shall be held for the purposes of this section, until the annual adjustment hereinafter provided for takes place in the year then next following. \$5,000 to be retained upon issue of certificate.

3. The amount at the credit of such bank shall, at such next annual adjustment, be adjusted by payment to or by the bank of such sum as is necessary to make the amount of money at the credit of the bank equal to five per centum of the average amount of its notes in circulation from the time it commenced business to the time of such adjustment and such sum shall thereafter be adjusted annually as hereinafter provided. Adjustment. Five per centum of average circulation.

4. The amounts heretofore and from time to time hereafter paid, to be retained and held by the Minister as by this section provided, shall continue to form and shall form the Circulation Fund. Circulation Fund.

5. The Circulation Fund shall continue to be held as heretofore for the sole purpose of payment, in the event of the suspension by a bank of payment in specie or Dominion notes of any of its liabilities as they accrue, of the notes then issued or re-issued by such bank, intended for circulation, and then in circulation, and interest thereon. Its purposes.

6. The Circulation Fund shall bear interest at the rate of three per centum per annum. Fund to bear interest.

7. The Circulation Fund shall be adjusted, as soon as possible after the thirtieth day of June in each year, in such a way as to make the amount at the credit of each bank contributing thereto, unless herein otherwise specially provided, equal to five per centum of the average note circulation of such bank during the then last preceding twelve months. Adjustment annually.

8. The average note circulation of a bank during any period shall be determined from the average of the amount of its notes in circulation, as shown by the monthly returns for such period made by the bank to the Minister; and where, in any return, the greatest amount of notes in circulation at any time during the month is given, such amount shall, for the purposes of this section, be taken to be the amount of the notes of the bank in circulation during the month to which such return relates. Average note circulation, how determined.

Rights of
Minister.

Proviso.

9. The Minister shall with respect to all notes paid out of the Circulation Fund have the same rights as any other holder of the notes of the bank: Provided that all such notes, and all interest thereon, so paid by the Minister, after the amount at the credit of such bank in the Circulation Fund, and all interest due or accruing due thereon, has been exhausted, shall bear interest, at the rate of three per centum per annum, from the time such notes and interest are paid until such notes and interest are repaid to the Minister by or out of the assets of such bank. 53 V., c. 31, s. 54; 63-64 V., c. 26, s. 13.

Notes of
bank sus-
pending pay-
ment to bear
interest.

65. In the event of the suspension by a bank of payment in specie or Dominion notes of any of its liabilities as they accrue, the notes of the bank, issued or re-issued, intended for circulation, and then in circulation, shall bear interest at the rate of five per centum per annum, from the day of the suspension to such day as is named by the directors, or by the liquidator, receiver, assignee or other proper official, for the payment thereof.

Notice of
time for
payment.

2. Notice of such day shall be given by advertising for at least three days in a newspaper published in the place in which the head office of the bank is situate.

As to notes
not then
presented.

3. If any notes presented for payment on or after any day named for payment thereof are not paid, all notes then unpaid and in circulation shall continue to bear interest until such further day as is named for payment thereof, of which day notice shall be given in manner hereinbefore provided.

Notes not re-
deemed to
be paid out
of Circula-
tion Fund.

4. If the directors of the bank or the liquidator, receiver, assignee or other proper official fails to make arrangements, within two months from the day of the suspension of payment by the bank, for the payment of all of its notes and interest thereon, the Minister may make arrangements for the payment, out of the Circulation Fund, of the notes remaining unpaid and all interest thereon, and the Minister shall give such notice of the payment as he thinks expedient.

Interest to
cease.

5. Notwithstanding anything herein contained all interest upon such notes shall cease upon and from the date named by the Minister for such payment.

Government
not liable.

6. Nothing herein contained shall be construed to impose any liability upon the Government of Canada, or upon the Minister, beyond the amount available from time to time out of the Circulation Fund. 53 V., c. 31, s. 54; 63-64 V., c. 26, s. 11.

Payments
from Fund.

66. All payments made from the Circulation Fund shall be without regard to the amount contributed thereto by the bank in respect of whose notes the payments are made.

If Fund
exceeded.

2. If the payments from the Circulation Fund exceed the amount contributed to the Circulation Fund by the bank so suspending payment, and all interest due or accruing due to such bank thereon, the other banks to which this Act applies shall, on

demand, make good to the Circulation Fund the amount of the excess, proportionately to the amount which each such other bank had or should have contributed to the Circulation Fund, at the time of the suspension of the bank in respect of whose notes the payments are made: Provided that,—

Proviso.

- (a) each of such other banks shall only be called upon to make good to the Circulation Fund its share of the excess in payments not exceeding, in any one year, one per centum of the average amount of its notes in circulation;
- (b) such circulation shall be ascertained in such manner as the Minister decides; and,
- (c) the Minister's decision shall be final.

3. All amounts recovered and received by the Minister from the bank on account of which such payments were made shall, after the amount of such excess has been made good as aforesaid, be distributed among the banks contributing to make good such excess, proportionately to the amount contributed by each. 53 V., c. 31, s. 54; 63-64 V., c. 26, s. 12.

Amounts recovered, how distributed.

67. In the event of the winding-up of the business of a bank by reason of insolvency or otherwise, the Treasury Board may, on the application of the directors, or of the liquidator, receiver, assignee or other proper official, and on being satisfied that proper arrangements have been made for the payment of the notes of the bank and any interest thereon, pay over to the directors, liquidator, receiver, assignee or other proper official, the amount of the Circulation Fund at the credit of the bank, or such portion thereof as it thinks expedient. 53 V., c. 31, s. 54.

Refund of deposit if bank is wound-up.

68. The Treasury Board may make all such rules and regulations as it thinks expedient with reference to,—

Treasury Board rules.

- (a) the payment of any moneys out of the Circulation Fund, and the manner, place and time of such payments;
- (b) the collection of all amounts due to the Circulation Fund;
- (c) all accounts to be kept in connection therewith; and,
- (d) generally the management of the Circulation Fund and all matters relating thereto. 53 V., c. 31, s. 54.

69. The Minister may, in his official name, by action in the Exchequer Court of Canada, enforce payment, with costs of action, of any sum due and payable by any bank which should form part of the Circulation Fund. 53 V., c. 31, s. 54.

Minister may enforce payments.

70. The bank shall make such arrangements as are necessary to ensure the circulation at par, in any and every part of Canada, of all notes issued or re-issued by it and intended for circulation; and towards this purpose the bank shall establish agencies for the redemption and payment of its notes at the cities of Toronto, Montreal, Halifax, St. John, Winnipeg, Victoria

Arrangements to be made for circulation at par.

toria and Charlottetown, and at such other places as are, from time to time, designated by the Treasury Board. 53 V., c. 31, s. 55.

Bank must take its own notes.

71. The bank shall always receive in payment its own notes at par at any of its offices, and whether they are made payable there or not.

At head office.

2. The chief place of business of the bank shall always be one of the places at which its notes are made payable. 53 V., c. 31, s. 56.

Payment in Dominion notes.

72. The bank, when making any payment, shall, on the request of the person to whom the payment is to be made, pay the same, or such part thereof, not exceeding one hundred dollars, as such person requests, in Dominion notes for one, two, or four dollars each, at the option of such person.

No torn or defaced notes.

2. No payment, whether in Dominion notes or bank notes, shall be made in bills that are torn or partially defaced by excessive handling. 53 V., c. 31, s. 57.

Bonds, obligations, etc.

73. The bonds, obligations and bills, obligatory or of credit, of the bank under its corporate seal, signed by the president or vice-president, and countersigned by a cashier or assistant cashier, which are made payable to any person, shall be assignable by endorsement thereon.

Assignable by endorsement.

Bills or notes binding.

2. The bills or notes of the bank signed by the president, vice-president, cashier or other officer appointed by the directors of the bank to sign the same, promising the payment of money to any person, or to his order, or to the bearer, though not under the corporate seal of the bank, shall be binding and obligatory on the bank, in like manner and with the like force and effect as they would be upon any private person, if issued by him in his private or natural capacity, and shall be assignable in like manner as if they were so issued by a private person in his natural capacity.

Though not sealed.

Directors may depute officer to sign.

3. The directors of the bank may, from time to time, authorize or depute any cashier, assistant cashier or officer of the bank, or any director other than the president or vice-president, or any cashier, manager or local director of any branch or office of discount and deposit of the bank, to sign the notes of the bank intended for circulation. 53 V., c. 31, s. 58.

Bills may be signed by machinery.

74. All bank notes and bills whereon the name of any person entrusted or authorized to sign such notes or bills on behalf of the bank is impressed by machinery provided for that purpose, by or with the authority of the bank, shall be good and valid to all intents and purposes, as if such notes and bills had been subscribed in the proper handwriting of the person entrusted or authorized by the bank to sign the same respectively, and shall be bank notes and bills within the meaning of all laws and statutes whatever, and may be described as

bank notes or bills in all indictments and civil or criminal proceedings whatever: Provided that at least one signature to each note or bill must be in the actual handwriting of a person authorized to sign such note or bill. 53 V., c. 31, s. 59.

One signature to be hand-written.

75. Every officer charged with the receipt or disbursement of public moneys, and every officer of any bank, and every person acting as of employed by any banker, shall stamp or write in plain letters, upon every counterfeit or fraudulent note issued in the form of a Dominion or bank note, and intended to circulate as money, which is presented to him at his place of business, the word *Counterfeit*, *Altered* or *Worthless*.

Counterfeit or fraudulent notes to be stamped.

2. If such officer or person wrongfully stamps any genuine note he shall, upon presentation, redeem it at the face value thereof. 53 V., c. 31, s. 62.

If wrongfully stamped.

THE BUSINESS AND POWERS OF A BANK.

76. The bank may,—

- (a) open branches, agencies and offices;
- (b) engage in and carry on business as a dealer in gold and silver coin and bullion; Generally.
- (c) deal in, discount and lend money and make advances upon the security of, and take as collateral security for any loan made by it, bills of exchange, promissory notes and other negotiable securities, or the stock, bonds, debentures and obligations of municipal and other corporations, whether secured by mortgage or otherwise, or Dominion, provincial, British, foreign and other public securities; and,
- (d) engage in and carry on such business generally as appertains to the business of banking.

2. Except as authorized by this Act, the bank shall not, either directly or indirectly,— Exceptions.

- (a) deal in the buying or selling, or bartering of goods, wares and merchandise, or engage or be engaged in any trade or business whatsoever;
- (b) purchase, or deal in, or lend money, or make advances upon the security or pledge of any share of its own capital stock, or of the capital stock of any bank; or,
- (c) lend money or make advances upon the security, mortgage or hypothecation of any lands, tenements or immovable property, or of any ships or other vessels, or upon the security of any goods, wares and merchandise. 53 V., c. 31, s. 64.

77. The bank shall have a privileged lien, for any debt or liability for any debt to the bank, on the shares of its own capital stock, and on any unpaid dividends of the debtor or person

Bank to have lien upon the

stock of its
debtors.

Sale of
shares.

Notice.

Transfer.

Effect of
transfer.

Collateral
securities
may be sold.

Right of
sale may be
waived.

Acquisition
of real
estate.

Mortgages
and *hypo-
thèques*
of realty.

As to per-
sonalty.

son liable, and may decline to allow any transfer of the shares of such debtor or person until the debt is paid.

2. The bank shall, within twelve months after the debt has accrued and become payable, sell such shares: Provided that notice shall be given to the holder of the shares of the intention of the bank to sell the same, by mailing the notice, in the post office, post paid, to the last known address of the holder, at least thirty days prior to the sale.

3. Upon the sale being made the president, vice-president, manager or cashier shall execute a transfer of the shares to the purchaser thereof in the usual transfer book of the bank.

4. Such transfer shall vest in the purchaser all the rights in or to the said shares which were possessed by the holder thereof, with the same obligation of warranty on his part as if he were the vendor thereof, but without any warranty from the bank or by the officer of the bank executing the transfer. 53 V., c. 31, s. 65.

78. The stock, bonds, debentures or securities, acquired and held by the bank as collateral security, may, in case of default in the payment of the debt, for the securing of which they were so acquired and held, be dealt with, sold and conveyed, either in like manner and subject to the same restrictions as are herein provided in respect of stock of the bank on which it has acquired a lien under this Act, or in like manner as and subject to the restrictions under which a private individual might in like circumstances deal with, sell and convey the same: Provided that the bank shall not be obliged to sell within twelve months.

2. The right so to deal with and dispose of such stock, bonds, debentures or securities in manner aforesaid may be waived or varied by any agreement between the bank and the owner of the stock, bonds, debentures or securities, made at the time at which such debt was incurred, or, if the time of payment of the debt has been extended, then by an agreement made at the time of the extension. 53 V., c. 31, s. 66.

79. The bank may acquire and hold real and immovable property for its actual use and occupation and the management of its business, and may sell or dispose of the same, and acquire other property in its stead for the same purpose. 53 V., c. 31, s. 67.

80. The bank may take, hold and dispose of mortgages and *hypothèques* upon real or personal, immovable or movable property, by way of additional security for debts contracted to the bank in the course of its business.

2. The rights, powers and privileges which the bank is by this Act declared to have, or to have had, in respect of real or immovable property mortgaged to it, shall be held and possessed

by it in respect of any personal or movable property which is mortgaged or hypothecated to the bank. 53 V., c. 31, s. 68.

81. The bank may purchase any lands or real or immovable property offered for sale,— Purchases of realty.

(a) under execution, or in insolvency, or under the order or decree of a court, as belonging to any debtor to the bank;

or,

(b) by a mortgagee or other encumbrancer, having priority over a mortgage or other encumbrance held by the bank;

or,

(c) by the bank under a power of sale given to it for that purpose;

in cases in which, under similar circumstances, an individual could so purchase, without any restriction as to the value of the property which it may so purchase, and may acquire a title thereto as any individual, purchasing at sheriff's sale, or under a power of sale, in like circumstances could do, and may take, have, hold and dispose of the same at pleasure. 53 V., c. 31, s. 69.

82. The bank may acquire and hold an absolute title in or to real or immovable property mortgaged to it as security for a debt due or owing to it, either by the obtaining of a release of the equity of redemption in the mortgaged property, or by procuring a foreclosure, or by other means whereby, as between individuals, an equity of redemption can, by law, be barred, and may purchase and acquire any prior mortgage or charge on such property. Bank may acquire absolute title to mortgaged premises.

2. Nothing in any charter, Act or law shall be construed as ever having been intended to prevent or as preventing the bank from acquiring and holding an absolute title to and in any such mortgaged real or immovable property, whatever the value thereof, or from exercising or acting upon any power of sale contained in any mortgage given to or held by the bank, authorizing or enabling it to sell or convey away any property so mortgaged. 53 V., c. 31, s. 71; 63-64 V., c. 26, s. 14. No Act or law to prevent.

83. No bank shall hold any real or immovable property, howsoever acquired, except such as is required for its own use, for any period exceeding seven years from the date of the acquisition thereof, or any extension of such period as in this section provided, and such property shall be absolutely sold or disposed of, within such period or extended period, as the case may be, so that the bank shall no longer retain any interest therein unless by way of security. Property to be sold within certain time.

2. The Treasury Board may direct that the time for the sale or disposal of any such real or immovable property shall be extended for a further period or periods, not to exceed five years. Extension of time.

Twelve
years.

3. The whole period during which the bank may so hold such property under the foregoing provisions of this section shall not exceed twelve years from the date of the acquisition thereof.

Property not
sold liable
to forfeiture.

4. Any real or immovable property, not required by the bank for its own use, held by the bank for a longer period than authorized by the foregoing provisions of this section shall be liable to be forfeited to His Majesty for the use of the Dominion of Canada: Provided that,—

Proviso.

(a) no such forfeiture shall take effect until the expiration of at least six calendar months after notice in writing to the bank by the Minister of the intention of His Majesty to claim the forfeiture; and,

(b) the bank may, notwithstanding such notice, before the forfeiture is effected sell or dispose of the property free from liability to forfeiture.

Provisions
apply to
realty now
held.

5. The provisions of this section shall apply to any real or immovable property heretofore acquired by the bank and held by it at the time of the coming into force of this Act. 63-64 V., c. 26, s. 14.

Loans on
standing
timber.

84. The bank may lend money upon the security of standing timber, and the rights or licenses held by persons to cut or remove such timber. 63-64 V., c. 26, s. 16.

As to
advances for
building
ships.

85. Every bank advancing money in aid of the building of any ship or vessel shall have the same right of acquiring and holding security upon such ship or vessel, while building and when completed, either by way of mortgage, *hypothèque*, hypothecation, privilege or lien thereon, or purchase or transfer thereof, as individuals have in the province wherein the ship or vessel is being built.

Rights and
obligations.

2. The bank may, for the purpose of obtaining and enforcing such security, avail itself of all such rights and means, and shall be subject to all such obligations, limitations and conditions, as are, by the law of such province, conferred or imposed upon individuals making such advances. 53 V., c. 31, s. 72.

Warehouse
receipts and
bills of
lading.

86. The bank may acquire and hold any warehouse receipt or bill of lading as collateral security for the payment of any debt incurred in its favour, or as security for any liability incurred by it for any person, in the course of its banking business.

Effect of
taking.

2. Any warehouse receipt or bill of lading so acquired shall vest in the bank, from the date of the acquisition thereof,—

(a) all the right and title to such warehouse receipt or bill of lading and to the goods covered thereby of the previous holder or owner thereof; or,

(b) all the right and title to the goods, wares and merchandise mentioned therein of the person from whom the same were received or acquired by the bank, if the warehouse receipt or bill of lading is made directly in favour of the

bank, instead of to the previous holder or owner of such goods, wares and merchandise. 53 V., c. 31, s. 73; 63-64 V., c. 26, s. 15.

87. If the previous holder of such warehouse receipt or bill of lading is any person,—

- (a) entrusted with the possession of the goods, wares and merchandise mentioned therein, by or by the authority of the owner thereof; or,
- (b) to whom such goods, wares and merchandise are, by or by the authority of the owner thereof, consigned; or,
- (c) who, by or by the authority of the owner of such goods, wares and merchandise, is possessed of any bill of lading, receipt, order or other document covering the same, such as is used in the course of business as proof of the possession or control of goods, wares and merchandise, or as authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of such a document to transfer or receive the goods, wares and merchandise thereby represented;

When previous holder is an agent.

the bank shall be, upon the acquisition of such warehouse receipt or bill of lading, vested with all the right and title of the owner of such goods, wares and merchandise, subject to the right of the owner to have the same retransferred to him if the debt or liability, as security for which such warehouse receipt or bill of lading is held by the bank, is paid.

2. Any person shall be deemed to be the possessor of such goods, wares and merchandise, bill of lading, receipt, order or other document as aforesaid,—

Presumption of possession.

- (a) who is in actual possession thereof; or,
- (b) for whom, or subject to whose control, the same are held by any person. 53 V., c. 31, s. 73; 63-64 V., c. 26, s. 15.

88. The bank may lend money to any wholesale purchaser or shipper of or dealer in products of agriculture, the forest, quarry and mine, or the sea, lakes and rivers, or to any wholesale purchaser or shipper of or dealer in live stock or dead stock and the products thereof, upon the security of such products, or of such live stock or dead stock and the products thereof.

Loans to wholesale shippers or dealers.

Upon security.

2. The bank may allow the goods, wares and merchandise covered by such security to be removed and other goods, wares and merchandise, such as mentioned in the last preceding subsection, to be substituted therefor, if the goods, wares and merchandise so substituted are of substantially the same character, and of substantially the same value as, or of less value than, those for which they have been so substituted; and the goods, wares and merchandise so substituted shall be covered by such security as if originally covered thereby.

Removal of goods.

Substitution.

3. The bank may lend money to any person engaged in business as a wholesale manufacturer of any goods, wares and merchandise,

Loans to wholesale manufacturers.

Security. merchandise, upon the security of the goods, wares and merchandise manufactured by him, or procured for such manufacture.

Owner may give the security. 4. Any such security, as mentioned in the foregoing provisions of this section, may be given by the owner of said goods, wares and merchandise, stock or products.

Form of security. 5. The security may be taken in the form set forth in schedule C to this Act, or to the like effect.

Same rights as upon warehouse receipts. 6. The bank shall, by virtue of such security, acquire the same rights and powers in respect to the goods, wares and merchandise, stock or products covered thereby, as if it had acquired the same by virtue of a warehouse receipt. 53 V., c. 31, s. 74; 63-64 V., c. 26, s. 17.

As to goods manufactured from articles pledged. **89.** If goods, wares and merchandise are manufactured or produced from the goods, wares and merchandise, or any of them, included in or covered by any warehouse receipt, or included in or covered by any security given under the last preceding section, while so covered, the bank holding such warehouse receipt or security shall hold or continue to hold such goods, wares and merchandise, during the process and after the completion of such manufacture or production, with the same right and title, and for the same purposes and upon the same conditions, as it held or could have held the original goods, wares and merchandise.

Prior claim of bank over unpaid vendor. 2. All advances made on the security of any bill of lading or warehouse receipt, or of any security given under the last preceding section, shall give to the bank making the advances a claim for the repayment of the advances on the goods, wares and merchandise therein mentioned, or into which they have been converted, prior to and by preference over the claim of any unpaid vendor: Provided that such preference shall not be given over the claim of any unpaid vendor who had a lien upon the goods, wares and merchandise at the time of the acquisition by the bank of such warehouse receipt, bill of lading, or security, unless the same was acquired without knowledge on the part of the bank of such lien.

Proviso. Sale of goods on non-payment of debt. 3. In the event of the non-payment at maturity of any debt or liability secured by a warehouse receipt or bill of lading, or secured by any security given under the last preceding section, the bank may sell the goods, wares and merchandise mentioned therein, or so much thereof as will suffice to pay such debt or liability with interest and expenses, returning the surplus, if any, to the person from whom the warehouse receipt, bill of lading, or security, or the goods, wares and merchandise mentioned therein, as the case may be, were acquired: Provided that such power of sale shall be exercised subject to the following provisions, namely:—

Proviso. Notice. (a) No sale, without the consent in writing of the owner of any timber, boards, deals, staves, saw-logs or other lumber,

shall be made under this Act until notice of the time and place of such sale has been given by a registered letter, mailed in the post office, post paid, to the last known address of the pledger thereof, at least thirty days prior to the sale thereof;

- (b) No goods, wares and merchandise, other than timber, boards, deals, staves, saw-logs or other lumber, shall be sold by the bank under this Act without the consent of the owner; until notice of the time and place of sale has been given by a registered letter, mailed in the post office, post paid, to the last known address of the pledger thereof, at least ten days prior to the sale thereof; *Idem.*
- (c) Every sale, under such power of sale, without the consent of the owner, shall be made by public auction, after notice thereof by advertisement, in at least two newspapers published in or nearest to the place where the sale is to be made, stating the time and place thereof; and, if the sale is in the province of Quebec, then at least one of such newspapers shall be a newspaper published in the English language, and one other such newspaper shall be a newspaper published in the French language. 53 V., c. 31, ss. 76, 77 and 78; 63-64 V., c. 26, s. 19. *Sale by auction.*

90. The bank shall not acquire or hold any warehouse receipt or bill of lading, or any such security as aforesaid, to secure the payment of any bill, note, debt, or liability, unless such bill, note, debt or liability is negotiated or contracted,— *Conditions under which bank may take security.*

- (a) at the time of the acquisition thereof by the bank; or,
- (b) upon the written promise or agreement that such warehouse receipt or bill of lading or security would be given to the bank:

Provided that such bill, note, debt, or liability may be renewed, or the time for the payment thereof extended, without affecting any such security. *Proviso.*

2. The bank may,—

- (a) on shipment of any goods, wares and merchandise for which it holds a warehouse receipt, or any such security as aforesaid, surrender such receipt or security and receive a bill of lading in exchange therefor; or, *Exchanging of warehouse receipt for bill of lading and vice versa.*
- (b) on the receipt of any goods, wares and merchandise for which it holds a bill of lading, or any such security as aforesaid, surrender such bill of lading or security, store the goods, wares and merchandise, and take a warehouse receipt therefor, or ship the goods, wares and merchandise, or part of them, and take another bill of lading therefor. 53 V., c. 31, s. 75; 63-64 V., c. 26, s. 18.

91. The bank may stipulate for, take, reserve or exact any rate of interest or discount, not exceeding seven per centum per annum, and may receive and take in advance, any such rate, *Interest at 7 per centum may be charged.*

357

but

but no higher rate of interest shall be recoverable by the bank. 53 V., c. 31, s. 80.

Any rate
may be
allowed.

92. The bank may allow any rate of interest whatever upon money deposited with it. 53 V., c. 31, s. 80.

Percentage
chargeable
for collec-
tion.

93. When any note, bill, or other negotiable security or paper, payable at any of the bank's places or seats of business, branches, agencies or offices of discount and deposit in Canada, is discounted at any other of the bank's places or seats of business, branches, agencies or offices of discount and deposit, the bank may, in order to defray the expenses attending the collection thereof, receive or retain, in addition to the discount thereon, a percentage calculated upon the amount of such note, bill, or other negotiable security or paper, not exceeding, if the note, bill, or other negotiable security or paper is to run,—

- (a) for less than thirty days, one-eighth of one per centum;
 - (b) for thirty days or over but less than sixty days, one-fourth of one per centum;
 - (c) for sixty days or over but less than ninety days, three-eighths of one per centum; and,
 - (d) for ninety days or over, one-half of one per centum.
- 53 V., c. 31, s. 82.

Agency
charges.

94. The bank may, in discounting any note, bill or other negotiable security or paper, *bona fide* payable at any place in Canada, other than that at which it is discounted, and other than one of its own places or seats of business, branches, agencies or offices of discount and deposit in Canada, receive and retain, in addition to the discount thereon, a sum not exceeding one-half of one per centum on the amount thereof, to defray the expenses of agency and charges in collecting the same. 53 V., c. 31, s. 83.

Deposits may
be received
from persons
unable to
contract.

95. The bank may, subject to the provisions of this section, without the authority, aid, assistance or intervention of any other person or official being required,—

- (a) receive deposits from any person whomsoever, whatever his age, status or condition in life, and whether such person is qualified by law to enter into ordinary contracts or not; and,
- (b) from time to time repay any or all of the principal thereof, and pay the whole or any part of the interest thereon to such person, unless before such repayment the money so deposited in the bank is lawfully claimed as the property of some other person.

Payments
by consent.

2. In the case of any such lawful claim the money so deposited may be paid to the depositor with the consent of the claimant, or to the claimant with the consent of the depositor.

Deposit
limited.

3. If the person making any such deposit could not, under the law of the province where the deposit is made, deposit and withdraw

withdraw money in and from a bank without this section, the total amount to be received from such person on deposit shall not, at any time, exceed the sum of five hundred dollars. 53 V., §500. c. 31, s. 84.

96. The bank shall not be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any deposit made under the authority of this Act is subject. Bank not bound to see to trusts in deposits.

2. Except only in the case of a lawful claim, by some other person before repayment, the receipt of the person in whose name any such deposit stands, or, if it stands in the names of two persons, the receipt of one, or, if it stands in the names of more than two persons, the receipt of a majority of such persons, shall, notwithstanding any trust to which such deposit is then subject, and whether or not the bank sought to be charged with such trust, and with which the deposit has been made, had notice thereof, be a sufficient discharge to all concerned for the payment of any money payable in respect of such deposit. Receipt of one of two joint depositors sufficient.
Or of a majority.

3. The bank shall not be bound to see to the application of the money paid upon such receipt. 53 V., c. 31, s. 84. Application.

97. If a person dies, having a deposit with the bank not exceeding the sum of five hundred dollars, the production to the bank and deposit with it of,— If depositor dies, claim not exceeding \$500, how proved.

(a) any authenticated copy of the probate of the will of the deceased depositor, or of letters of administration of his estate, or of letters of verification of heirship, or of the act of curatorship or tutorship, granted by any court in Canada having power to grant the same, or by any court or authority in England, Wales, Ireland, or any British colony, or of any testament, testamentary or testament dative expede in Scotland; or,

(b) an authentic notarial copy of the will of the deceased depositor, if such will is in notarial form, according to the law of the province of Quebec; or,

(c) if the deceased depositor died out of His Majesty's dominions, any authenticated copy of the probate of his will, or letters of administration of his property, or other document of like import, granted by any court or authority having the requisite power in such matters;

shall be sufficient justification and authority to the directors for paying such deposit, in pursuance of and in conformity to such probate, letters of administration, or other document as aforesaid. 63-64 V., c. 26, s. 20.

DOMINION GOVERNMENT CHEQUES.

98. The bank shall not charge any discount or commission for the cashing of any official cheque of the Government of Canada or of any department thereof, whether drawn on the To be paid at par.

bank cashing the cheque or on any other bank. 53 V., c. 31, s. 103.

THE PURCHASE OF THE ASSETS OF A BANK.

Bank may sell assets to another bank.

99. Any bank may sell the whole or any portion of its assets to any other bank which may purchase such assets; and the selling and purchasing banks may, for such purposes, enter into an agreement of sale and purchase, which agreement shall contain all the terms and conditions connected with the sale and purchase of such assets. 63-64 V., c. 26, s. 33.

Consideration.

100. The consideration for any such sale and purchase may be as agreed upon between the selling and purchasing banks.

If in shares of capital stock.

2. If the consideration, or any portion thereof, is shares of the capital stock of the purchasing bank, the agreement shall provide for the amount of the shares of the purchasing bank to be paid to the selling bank.

Not considered issued until sold or distributed.

3. Until such shares so paid to the selling bank have been sold by such bank, or have been distributed among and accepted by the shareholders of such bank, they shall not be considered issued shares of the purchasing bank for the purposes of its note circulation. 63-64 V., c. 26, s. 34.

Agreement of sale to be submitted to selling shareholders at meeting.

101. The agreement of sale and purchase shall be submitted to the shareholders of the selling bank, either at the annual general meeting of such bank or at a special general meeting thereof called for the purpose.

Copy to each shareholder by mail.

2. A copy of the agreement shall be mailed, postpaid, to each shareholder of such bank to his last known address, at least four weeks previously to the date of the meeting at which the agreement is to be submitted, together with a notice of the time and place of the holding of such meeting. 63-64 V., c. 26, s. 35.

Agreement may be executed if they approve.

102. If at such meeting the agreement is approved by resolution carried by the votes of shareholders, present in person or represented by proxy, representing not less than two-thirds of the amount of the subscribed capital stock of the bank, the agreement may be executed under the seals of the banks, parties thereto, and application may be made to the Governor in Council, through the Minister, for approval thereof.

Approval of Governor in Council.

2. Until the agreement is approved by the Governor in Council it shall not be of any force or effect. 63-64 V., c. 26, s. 36.

Approval of shareholders of purchasing bank.

103. If the agreement provides for the payment of the consideration for such sale and purchase, in whole or in part, in shares of the capital stock of the purchasing bank, and for such purpose it is necessary to increase the capital stock of such

bank, the agreement shall not be executed on behalf of the purchasing bank, unless nor until it is approved by the shareholders thereof at the annual general meeting, or at a special general meeting of such shareholders. 63-64 V., c. 26, s. 37.

104. The Governor in Council may, on the application for his approval of the agreement, approve of the increase of the capital stock of the purchasing bank, which is necessary to provide for the payment of the shares of such bank to the selling bank, as provided in the said agreement. 63-64 V., c. 26, s. 38.

Necessary increase of stock may be approved.

105. The provisions of this Act with regard to,—

(a) the increase of the capital stock of the bank by by-law of the shareholders approved by the Treasury Board; and,

(b) the allotment and sale of such increased stock;

shall not apply to any increase of stock made or provided for under the authority of the last two preceding sections. 63-64 V., c. 26, s. 38.

Ordinary provisions for increase not to apply.

106. The approval of the Governor in Council shall not be given to the agreement, unless,—

(a) the approval thereof is recommended by the Treasury Board;

(b) the application for approval thereof is made, by or on behalf of the bank executing it, within three months from the date of execution of the agreement; and,

(c) it appears to the satisfaction of the Governor in Council that all the requirements of this Act in connection with the approval of the agreement by the shareholders of the selling and purchasing banks have been complied with, and that notice of the intention of the banks to apply to the Governor in Council for the approval of the agreement has been published for at least four weeks in the *Canada Gazette*, and in one or more newspapers published in places where the chief offices or places of business of the banks are situate.

Conditions on which Governor in Council may approve agreement.

2. Such banks shall afford all information that the Minister requires.

Information.

3. Nothing herein contained shall be construed to prevent the Governor in Council or the Treasury Board from refusing to approve of the agreement or to recommend its approval. 63-64 V., c. 26, s. 39.

Approval may be refused.

107. The agreement shall not be approved of unless it appears that,—

Further conditions.

- (a) proper provisions have been made for the payment of the liabilities of the selling bank;
- (b) the agreement provides for the assumption and payment by the purchasing bank of the notes of the selling bank issued and intended for circulation, outstanding and in circulation; and,

(c) the amounts of the notes of both the purchasing and selling banks, issued for circulation, outstanding and in circulation, as shown by the then last monthly returns of the banks, do not together exceed the then paid-up capital of the purchasing bank; or, if the amount of such notes does exceed such paid-up capital, an amount in cash, equal to the excess of such notes over such paid-up capital, has been deposited by the purchasing bank with the Minister.

Deposit.

2. The amount so deposited as aforesaid shall be held by the Minister as security for the redemption of the said excess of notes; and, when such excess, or any portion thereof, has been redeemed and cancelled, the amount so deposited, or an amount equal to the amount of excess so redeemed and cancelled, shall, from time to time, be repaid by the Minister to the purchasing bank, but without interest, on the application of such bank, and on the production of such evidence as the Minister may require to show that the notes in regard to which such repayment is asked have been redeemed and cancelled. 63-64 V., c. 27, s. 1.

Notes of
selling bank
to become
notes of
purchasing
bank.

108. The notes of the selling bank so assumed and to be paid by the purchasing bank shall, on the approval of the agreement, be deemed to be, for all intents and purposes, notes of the purchasing bank issued for circulation; and the purchasing bank shall be liable in the same manner and to the same extent as if it had issued them for circulation.

Circulation
Fund.

2. The amount at the credit of the selling bank in the Circulation Fund shall, on the approval of the agreement, be transferred to the credit of the purchasing bank.

Notes to be
called in.

3. The notes of the selling bank shall not be re-issued, but shall be called in, redeemed and cancelled as quickly as possible. 63-64 V., c. 26, s. 41.

Evidence of
approval by
Governor in
Council.

Order in
council con-
clusive.

109. The approval by the Governor in Council of the agreement shall be evidenced by a certified copy of the order in council approving thereof.

2. Such certified copy shall be conclusive evidence of the approval of the agreement therein referred to, and of the regularity of all proceedings in connection therewith. 63-64 V., c. 26, s. 42.

On approval
of Governor
in Council
the assets
pass.

110. On the agreement being approved of by the Governor in Council, the assets therein referred to as sold and purchased shall, in accordance with and subject to the terms thereof, and without any further conveyance, become vested in the purchasing bank.

Further
assurance.

2. The selling bank shall, from time to time, subject to the terms of the agreement, execute such formal and separate conveyances, assignments and assurances, for registration purposes or otherwise, as are reasonably required to confirm or evidence the vesting in the purchasing bank of the full title or ownership

of the assets referred to in the agreement. 63-64 V., c. 26, s. 43.

111. As soon as the agreement is approved of by the Governor in Council, the selling bank shall cease to issue or re-issue notes for circulation, and shall cease to transact any business, except such as is necessary to enable it to carry out the agreement, to realize upon any assets not included in the agreement, to pay and discharge its liabilities, and generally to wind up its business; and the charter or Act of incorporation of such bank, and any Acts in amendment thereof then in force, shall continue in force only for the purposes in this section specified. 63-64 V., c. 26, s. 44.

Selling bank to cease business and be wound up.

RETURNS.

112. Monthly returns shall be made by the bank to the Minister in the form set forth in schedule D to this Act. Monthly.

2. Such returns shall be made up and sent in within the first fifteen days of each month, and shall exhibit the condition of the bank on the last juridical day of the month last preceding. Within first 15 days.

3. Such returns shall be signed by the chief accountant and by the president, or vice-president, or the director then acting as president, and by the manager, cashier or other principal officer of the bank at its chief place of business. 53 V., c. 31, s. 85. How signed.

113. The Minister may also call for special returns from any bank, whenever, in his judgment, they are necessary to afford a full and complete knowledge of its condition. Special returns.

2. Such special returns shall be made and signed in the manner and by the persons specified in the last preceding section. How made.

3. Such special returns shall be made and sent in within thirty days from the date of the demand therefor by the Minister: Provided that the Minister may extend the time for sending in such special returns for such further period, not exceeding thirty days, as he thinks expedient. 53 V., c. 31, s. 86. Within 30 days from demand.

114. The bank shall, within twenty days after the close of each calendar year, transmit or deliver to the Minister a return,— Annual.

(a) of all dividends which have remained unpaid for more than five years; and,

(b) of all amounts or balances in respect of which no transactions have taken place, or upon which no interest has been paid, during the five years prior to the date of such return:

Provided that, in the case of moneys deposited for a fixed period, the said term of five years shall be reckoned from the date of the termination of such fixed period.

What return shall show.

2. The return mentioned in the last preceding subsection shall set forth,—

- (a) the name of each shareholder or creditor to whom such dividends, amounts or balances are, according to the books of the bank, payable;
- (b) the last known address of each such shareholder or creditor;
- (c) the amount due to each such shareholder or creditor;
- (d) the agency of the bank at which the last transaction took place;
- (e) the date of such last transaction; and,
- (f) if such shareholder or creditor is known to the bank to be dead, the names and addresses of his legal representatives, so far as known to the bank.

Further annual return.

3. The bank shall likewise, within twenty days after the close of each calendar year, transmit or deliver to the Minister a return of all drafts or bills of exchange, issued by the bank to any person, and remaining unpaid for more than five years prior to the date of such return, setting forth so far as known,—

Particulars.

- (a) the names of the persons to whom, or at whose request such drafts or bills of exchange were issued;
- (b) the addresses of such persons;
- (c) the names of the payees of such drafts or bills of exchange;
- (d) the amounts and dates of such drafts or bills of exchange;
- (e) the names of the places where such drafts or bills of exchange were payable; and,
- (f) the agencies of the bank respectively from which such drafts or bills of exchange were issued.

How annual returns signed.

4. The returns required by the foregoing provisions of this section shall be signed by the chief accountant, and by the president or vice-president or the director then acting as president, and by the manager, cashier or other principal officer of the bank, at its chief place of business.

Annual list.

5. The bank shall also, within twenty days after the close of each calendar year, transmit or deliver to the Minister a certified list showing,—

- (a) the names of the shareholders of the bank on the last day of such calendar year, with their additions and residences;
- (b) the number of shares then held by them respectively; and,
- (c) the value at par of such shares.

To Parliament.

6. The Minister shall lay such returns and lists before Parliament at the next session thereof. 53 V., c. 31, ss. 87 and 88; 63-64 V., c. 26, s. 21.

PAYMENTS TO THE MINISTER UPON WINDING UP.

115. If, in the event of the winding-up of the business of the bank in insolvency, or under any general winding-up Act, or otherwise, any moneys payable by the liquidator, either to shareholders or depositors, remain unclaimed,—

Unclaimed moneys.

- (a) for the period of three years from the date of suspension of payment by the bank; or,
- (b) for a like period from the commencement of the winding-up of such business; or,
- (c) until the final winding-up of such business, if the business is finally wound up before the expiration of the said three years;

such moneys and all interest thereon shall, notwithstanding any statute of limitations or other Act relating to prescription, be paid to the Minister, to be held by him subject to all rightful claims on behalf of any person other than the bank.

With interest.

2. If a claim to any moneys so paid is thereafter established to the satisfaction of the Treasury Board, the Governor in Council shall, on the report of the Treasury Board, direct payment thereof to be made to the person entitled thereto, together with interest on the principal sum thereof, at the rate of three per centum per annum, for a period not exceeding six years from the date of payment thereof to the Minister as aforesaid: Provided that no such interest shall be paid or payable on such principal sum, unless interest thereon was payable by the bank paying the same to the Minister.

Governor in Council may order payment to person entitled.

Interest.

3. Upon payment to the Minister as herein provided, the bank and its assets shall be held to be discharged from further liability for the amounts so paid. 53 V., c. 31, s. 88.

Bank discharged.

116. Upon the winding-up of a bank in insolvency or under any general winding-up Act, or otherwise, the assignees, liquidators, directors, or other officials in charge of such winding-up, shall, before the final distribution of the assets, or within three years from the commencement of the suspension of payment by the bank, whichever shall first happen, pay over to the Minister a sum, out of the assets of the bank, equal to the amount then outstanding of the notes intended for circulation issued by the bank.

Circulation outstanding at distribution of assets.

2. Upon such payment being made, the bank and its assets shall be relieved from all further liability in respect of such outstanding notes.

Bank relieved.

3. The sum so paid shall be held by the Minister and applied for the purpose of redeeming, whenever presented, such outstanding notes, without interest. 53 V., c. 31, s. 88.

Minister to redeem.

THE CURATOR.

117. The Association, shall, if a bank suspends payment in specie or Dominion notes of any of its liabilities as they accrue, forthwith

Association to appoint.

forthwith appoint a curator to supervise the affairs of such bank.

Removal.

2. The Association may at any time remove the curator, and may appoint another person to act in his stead. 63-64 V., c. 26, s. 24.

Appointment to be under by-law of Association. If no by-law.

118. The appointment of the curator shall be made in the manner provided for in the by-law of the Association made in that behalf as hereinafter provided.

2. If there is no such by-law the appointment shall be made in writing by the president of the Association, or by the person acting as president. 63-64 V., c. 26, s. 25.

Powers and duties of curator.

119. The curator shall assume supervision of the affairs of the bank, and of all necessary arrangements for the payment of the notes of the bank issued for circulation, and, at the time of his appointment, outstanding and in circulation.

Idem.

2. The curator shall generally have all powers and shall take all steps and do all things necessary or expedient to protect the rights and interests of the creditors and shareholders of the bank, and to conserve and ensure the proper disposition, according to law, of the assets of the bank; and, for the purposes of this section, he shall have free and full access to all books, accounts, documents and papers of the bank.

Idem.

3. The curator shall continue to supervise the affairs of the bank until he is removed from office, or until the bank resumes business, or until a liquidator is duly appointed to wind up the business of the bank. 63-64 V., c. 26, s. 26.

Officers and clerks to assist curator.

120. The president, vice-president, directors, general manager, managers, clerks and officers of the bank shall give and afford to the curator all such information and assistance as he requires in the discharge of his duties. 63-64 V., c. 26, s. 27.

No act of directors valid unless approved by curator.

121. No by-law, regulation, resolution or act, touching the affairs or management of the bank, passed, made or done by the directors during the time the curator is in charge of the bank, shall be of any force or effect until approved in writing by the curator. 63-64 V., c. 26, s. 27.

Curator to make returns as required by Minister.

122. The curator shall make all returns and reports, and shall give all information to the Minister, touching the affairs of the bank, that the Minister requires of him. 63-64 V., c. 26, s. 28.

Remuneration of curator.

123. The remuneration of the curator for his services, and his expenses and disbursements in connection with the discharge of his duties, shall be fixed and determined by the Association, and shall be paid out of the assets of the bank, and, in case of the winding-up of the bank, shall rank on the estate

equally with the remuneration of the liquidator. 63-64 V., c. 26, s. 29.

BY-LAWS OF THE CANADIAN BANKERS' ASSOCIATION.

124. The Association may, at any meeting thereof, with the approval of two-thirds in number of the banks represented at such meeting, if the banks so approving have at least two-thirds in par value of the paid-up capital of the banks so represented, make by-laws, rules and regulations respecting,—

- (a) all matters relating to the appointment or removal of the curator, and his powers and duties; How made.
As to what subjects.
- (b) the supervision of the making of the notes of the banks which are intended for circulation, and the delivery thereof to the banks;
- (c) the inspection of the disposition made by the banks of such notes;
- (d) the destruction of notes of the banks; and,
- (e) the imposition of penalties for the breach or non-observance of any by-law, rule or regulation made by virtue of this section.

2. No such by-law, rule or regulation, and no amendment or repeal thereof, shall be of any force or effect until approved by the Treasury Board. Approval of Treasury Board.

3. Before any such by-law, rule or regulation, or any amendment or repeal thereof is so approved, the Treasury Board shall submit it to every bank which is not a member of the Association, and give to each such bank an opportunity of being heard before the Treasury Board with respect thereto. Notice to other banks.

4. The Association shall have all powers necessary to carry out, or to enforce the carrying out, of any by-law, rule or regulation, or any amendment thereof, so approved by the Treasury Board. 63-64 V., c. 26, ss. 30 and 31. Enforcement of by-laws.

INSOLVENCY.

125. In the event of the property and assets of the bank being insufficient to pay its debts and liabilities, each shareholder of the bank shall be liable for the deficiency, to an amount equal to the par value of the shares held by him, in addition to any amount not paid up on such shares. 53 V., c. 31, s. 89. Double liability of shareholders.

126. The liability of the bank, under any law, custom or agreement to repay moneys deposited with it and interest, if any, and to pay dividends declared and payable on its capital stock, shall continue, notwithstanding any statute of limitations, or any enactment or law relating to prescription. Liability of bank.

2. This section applies to moneys heretofore or hereafter deposited, and to dividends heretofore or hereafter declared. 53 V., c. 31, s. 90. No prescription.
Retrospective.

Suspension
for 90 days
to constitute
insolvency.

127. Any suspension by the bank of payment of any of its liabilities as they accrue, in specie or Dominion notes, shall, if it continues for ninety days consecutively, or at intervals within twelve consecutive months, constitute the bank insolvent, and work a forfeiture of its charter or Act of incorporation, so far as regards all further banking operations.

Charter to
remain in
force only for
winding up.

2. The charter or Act of incorporation of the bank shall, in such case, remain in force only for the purpose of enabling the directors, or other lawful authority, to make and enforce the calls mentioned in the next following section of this Act, and to wind up the business of the bank. 53 V., c. 31, s. 91.

If no pro-
ceedings
within 3
months
thereafter
directors to
make calls.

128. If any suspension of payment in full, in specie or Dominion notes, of all or any of the notes or other liabilities of the bank, continues for three months after the expiration of the time which, under the last preceding section, would constitute the bank insolvent, and if no proceedings are taken under any Act for the winding-up of the bank, the directors shall make calls on the shareholders thereof, to the amount they deem necessary to pay all the debts and liabilities of the bank, without waiting for the collection of any debts due to the bank or the sale of any of its assets or property.

Intervals.
Notice.

2. Such calls shall be made at intervals of thirty days.

3. Such calls shall be made upon notice to be given at least thirty days prior to the day on which any such call shall be payable.

Number.
Amount.
Payment.

4. Any number of such calls may be made by one resolution.

5. No such call shall exceed twenty per centum on each share.

6. Payment of such calls may be enforced in like manner as payment of calls on unpaid stock may be enforced.

First call.

7. The first of such calls may be made within ten days after the expiration of the said three months.

Procedure.

8. In the event of proceedings being taken, under any Act, for the winding-up of the bank in consequence of the insolvency of the bank, the said calls shall be made in the manner prescribed for the making of such calls in such Act.

Forfeiture
for non-pay-
ment.

9. Any failure on the part of any shareholder liable to any such call to pay the same when due, shall work a forfeiture by such shareholder of all claim in or to any part of the assets of the bank: Provided that such call, and any further call thereafter, shall nevertheless be recoverable from him as if no such forfeiture had been incurred. 53 V., c. 31, ss. 92, 93 and 94.

Proviso.

Liability of
directors not
diminished.

129. Nothing contained in the four sections last preceding shall be construed to alter or diminish the additional liabilities of the directors as herein mentioned and declared. 53 V., c. 31, s. 95.

Liability of
shareholders
who have

130. (a) Persons who, having been shareholders of the bank, have only transferred their shares, or any of them, to others,

others, or registered the transfer thereof, within sixty days before the commencement of the suspension of payment by the bank; and, transferred their stock.

- (b) Persons whose subscriptions to the stock of the bank have been cancelled, in manner hereinbefore provided, within the said period of sixty days before the commencement of the suspension of payment by the bank; Or whose subscriptions have been cancelled.

shall be liable to all calls on the shares held or subscribed for by them, as if they held such shares at the time of such suspension of payment, saving their recourse against those by whom such shares were then actually held. 53 V., c. 31, s. 96.

131. In the case of the insolvency of any bank,—

- (a) the payment of the notes issued or re-issued by such bank, intended for circulation, and then in circulation, together with any interest paid or payable thereon as hereinbefore provided, shall be the first charge upon the assets of the bank; Order of charges. Notes.
- (b) the payment of any amount due to the Government of Canada, in trust or otherwise, shall be the second charge upon such assets; Dominion Government.
- (c) the payment of any amount due to the government of any of the provinces, in trust or otherwise, shall be the third charge upon such assets; and, Provincial governments.
- (d) the amount of any penalties for which the bank is liable shall not form a charge upon the assets of the bank, until all other liabilities are paid. 53 V., c. 31, s. 53. Penalties.

OFFENCES AND PENALTIES.

The Commencement of Business.

132. Every director or provisional director of any bank and every other person, who, before the obtaining of the certificate from the Treasury Board, by this Act required, permitting the bank to issue notes or commence business, issues or authorizes the issue of any note of such bank, or transacts or authorizes the transaction of any business in connection with such bank, except such as is by this Act authorized to be transacted before the obtaining of such certificate, is guilty of an offence against this Act. 53 V., c. 31, s. 14. Commencing business without certificate. Offence.

The Sale and Transfer of Shares.

133. Any person, whether principal, broker or agent, who wilfully sells or transfers or attempts to sell or transfer,— If contrary to requirements.

- (a) any share or shares of the capital stock of any bank by a false number; or,
- (b) any share or shares of which the person making such sale or transfer, or in whose name or on whose behalf the same is made, is not at the time of such sale, or attempted sale, the registered owner; or,

(c) any share or shares, without the assent to such sale of the registered owner thereof;
 Offence. is guilty of an offence against this Act. 53 V., c. 31, s. 37.

The Cash Reserves.

Holding less than forty p. c. in Dominion notes. **134.** Every bank which at any time holds less than forty per centum of its cash reserves in Dominion notes shall incur a penalty of five hundred dollars for each such offence. 53 V., c. 31, s. 50.

The Issue and Circulation of Notes.

Excess of circulation. **135.** If the total amount of the notes of the bank in circulation at any time exceeds the amount authorized by this Act the bank shall,—

Penalty. (a) if the amount of such excess is not over one thousand dollars, incur a penalty equal to the amount of such excess; or,

Idem. (b) if the amount of such excess is over one thousand dollars, and not over twenty thousand dollars, incur a penalty of one thousand dollars; or,

Idem. (c) if the amount of such excess is over twenty thousand dollars, and not over one hundred thousand dollars, incur a penalty of ten thousand dollars; or,

Idem. (d) if the amount of such excess is over one hundred thousand dollars, and not over two hundred thousand dollars, incur a penalty of fifty thousand dollars; or,

Idem. (e) if the amount of such excess is over two hundred thousand dollars, incur a penalty of one hundred thousand dollars. 53 V., c. 31, s. 51.

Unauthorized issue of notes for circulation. **136.** Every person, except a bank to which this Act applies, who issues or re-issues, makes, draws, or endorses any bill, bond, note, cheque or other instrument, intended to circulate as money, or to be used as a substitute for money, for any amount whatsoever, shall incur a penalty of four hundred dollars.

How recoverable. 2. Such penalty shall be recoverable with costs, in any court of competent jurisdiction, by any person who sues for the same.

Appropriation. 3. A moiety of such penalty shall belong to the person suing for the same, and the other moiety to His Majesty for the public uses of Canada.

Intention presumed. 4. If any such instrument is made for the payment of a less sum than twenty dollars, and is payable either in form or in fact to the bearer thereof, or at sight, or on demand, or at less than thirty days thereafter, or is overdue, or is in any way calculated or designed for circulation, or as a substitute for money, the intention to pass the same as money shall be presumed, unless such instrument is,—

Exceptions. (a) a cheque on some chartered bank paid by the maker directly to his immediate creditor; or,

- (b) a promissory note, bill of exchange, bond or other undertaking for the payment of money made or delivered by the maker thereof to his immediate creditor; and,
 (c) not designed to circulate as money or as a substitute for money. 53 V., c. 31, s. 60.

137. Every person who in any way defaces any Dominion or provincial note, or bank note, whether by writing, printing, drawing or stamping thereon, or by attaching or affixing thereto, anything in the nature or form of an advertisement, shall be liable to a penalty not exceeding twenty dollars. 53 V., c. 31, s. 61. Defacement of notes.
Penalty.

138. (a) Every person who, being president, vice-president, director, general manager, manager, clerk or other officer of the bank, issues or re-issues, during any period of suspension of payment by the bank of its liabilities, any notes of the bank payable to bearer on demand, and intended for circulation, or authorizes or is concerned in any such issue or re-issue; and, Issuing notes during period of suspension.

(b) If, after any such suspension, the bank resumes business without the consent in writing of the curator, hereinbefore provided for, every person who being president, vice-president, director, general manager, manager, clerk or other officer of the bank issues or re-issues, or authorizes or is concerned in the issue or re-issue of any such notes before being thereunto authorized by the Treasury Board; and, Or without authority of Treasury Board.

(c) Every person who accepts, receives or takes, or authorizes or is concerned in, the acceptance, receipt or taking of any such notes, knowing the same to have been so issued or re-issued, from the bank, or from such president, vice-president, director, general manager, manager, clerk or other officer of the bank, in payment or part payment, or as security for the payment of any amount due or owing to such person by the bank; And accepting such notes.

is guilty of an indictable offence, and liable to imprisonment for a term not exceeding seven years, or to a fine not exceeding two thousand dollars, or to both. 63-64 V., c. 26, s. 10. Penalty.

139. (a) Every person who, being the president, vice-president, director, general manager, manager, cashier, or other officer of the bank, pledges, assigns, or hypothecates, or authorizes, or is concerned in the pledge, assignment or hypothecation of the notes of the bank; and, Pledging of notes.

(b) Every person who accepts, receives or takes, or authorizes or is concerned in the acceptance or receipt or taking of such notes as a pledge, assignment or hypothecation; shall be liable to a fine of not less than four hundred dollars and not more than two thousand dollars, or to imprisonment for not more than two years, or to both. 53 V., c. 31, s. 52. Accepting.
Penalty.

Issuing notes
fraudulently.

140. (a) Every person who, being the president, vice-president, director, general manager, manager, cashier or other officer of a bank, with intent to defraud, issues or delivers, or authorizes or is concerned in the issue or delivery of notes of the bank intended for circulation and not then in circulation; and,

Knowingly
accepting.

(b) Every person who, with knowledge of such intent, accepts, receives or takes, or authorizes or is concerned in the acceptance, receipt or taking of such notes;

Penalty.

shall be guilty of an indictable offence, and liable to imprisonment for a term not exceeding seven years, or to a fine not exceeding two thousand dollars, or to both. 53 V., c. 31, s. 52.

Warehouse Receipts, Bills of Lading and other Securities.

Bank
acquiring
warehouse
receipt or
bill of lading.

141. If any bank, to secure the payment of any bill, note, debt or liability, acquires or holds,—

(a) any warehouse receipt or bill of lading; or,

(b) any instrument such as is by this Act authorized to be taken by the bank to secure money lent,—

(i) to any wholesale purchaser, or shipper of or dealer in products of agriculture, the forest, quarry and mine, or the sea, lakes and rivers, or to any wholesale purchaser or shipper of or dealer in live or dead stock, and the products thereof, upon the security of such products, or of such live or dead stock, or the products thereof; or,

(ii) to any person engaged in business as a wholesale manufacturer of any goods, wares and merchandise, upon the security of the goods, wares and merchandise manufactured by such person, or procured for such manufacture;

such bank shall, unless,—

Except in
certain cases.

(a) such bill, note, debt or liability is negotiated or contracted at the time of the acquisition by the bank of such warehouse receipt, bill of lading or security; or,

(b) such bill, note, debt or liability is negotiated or contracted upon the written promise or agreement that such warehouse receipt, bill of lading or security would be given to the bank; or,

(c) the acquisition or holding by the bank of such warehouse receipt, bill of lading or security is otherwise authorized by this Act;

Penalty.

incur a penalty not exceeding five hundred dollars. 53 V., c. 31, s. 79.

Non-compliance with
requirements
for sale.

142. If any debt or liability to the bank is secured by,—

(a) any warehouse receipt, or bill of lading; or,

(b) any other security such as is mentioned in the last preceding section;

and is not paid at maturity, such bank shall, if it sells the goods, wares and merchandise or products, covered by such warehouse receipt, bill of lading or security, under the power of sale conferred upon it by this Act, without complying with the provisions to which the exercise of such power of sale is, by this Act, made subject, incur a penalty not exceeding five hundred dollars. 53 V., c. 31, s. 79; 63-64 V., c. 26, s. 18. Penalty.

143. Every person is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years who wilfully makes any false statement, — Making false statements.

- (a) in any warehouse receipt or bill of lading given under the authority of this Act to any bank; or, In warehouse receipt or bill of lading.
- (b) in any instrument given to any bank under the authority of this Act, as security for any loan of money made by the bank to any wholesale purchaser or shipper of or dealer in products of agriculture, the forest, quarry and mine, or the sea, lakes and rivers, or to any wholesale purchaser, or shipper of or dealer in live or dead stock and the products thereof, whereby any such products or stock is assigned or transferred to the bank as security for the payment of such loan; or, In security upon products.
- (c) in any instrument given to any bank under the authority of this Act, as security for any loan of money made by the bank to any person engaged in business as a wholesale manufacturer of any goods, wares and merchandise, whereby any of the goods, wares and merchandise manufactured by him, or procured for such manufacture, are transferred or assigned to the bank as security for the payment of such loan. 53 V., c. 31, s. 75. In security upon manufactures.

144. Every person who, having possession or control of any goods, wares and merchandise covered by any warehouse receipt or bill of lading, or by any such security as in the last preceding section mentioned, and having knowledge of such receipt, bill of lading or security, without the consent of the bank in writing, and before the advance, bill, note, debt or liability thereby secured has been fully paid, — Wilfully disposing of or withholding goods covered by security.

- (a) wilfully alienates or parts with any such goods, wares or merchandise; or,
 - (b) wilfully withholds from the bank possession of any such goods, wares and merchandise, upon demand, after default in payment of such advance, bill, note, debt or liability;
- is guilty of an indictable offence, and liable to imprisonment for a term not exceeding two years. 53 V., c. 31, s. 75; 63-64 V., c. 26, s. 18. Penalty.

145. (a) If any bank having, by virtue of the provisions of this Act, a privileged lien for any debt or liability for any debt to the bank, on the shares of its own capital stock of the debtor or person liable, neglects to sell such Bank not selling shares subject to privileged lien.

- shares within twelve months after such debt or liability has accrued and become payable; or,
- Or selling without notice. (b) If any such bank sells any such shares without giving notice to the holder thereof of the intention of the bank to sell the same, by mailing such notice in the post office, post paid, to the last known address of such holder, at least thirty days prior to such sale;
- Penalty. such bank shall incur, for each such offence, a penalty not exceeding five hundred dollars. 53 V., c. 31, s. 79.

Prohibited Business.

- Bank doing. **146.** If any bank, except as authorized by this Act, either directly or indirectly,—
- (a) deals in the buying or selling or bartering of goods, wares and merchandise, or engages or is engaged in any trade or business whatsoever; or,
 - (b) purchases, deals in, or lends money or makes advances upon the security or pledge of any share of its own capital stock, or of the capital stock of any bank; or,
 - (c) lends money or makes advances upon the security, mortgage or hypothecation of any lands, tenements or immovable property, or of any ships or other vessels, or upon the security of any goods, wares and merchandise;
- Penalty. such bank shall incur a penalty not exceeding five hundred dollars. 53 V., c. 31, s. 79.

Returns.

- Bank not making monthly returns. **147.** Every bank which neglects to make up and send to the Minister, within the first fifteen days of any month, any monthly return by this Act required to be made up and sent in within the said fifteen days, exhibiting the condition of the bank on the last juridical day of the month last preceding, and signed in the manner and by the persons by this Act required, shall incur a penalty of fifty dollars for each and every day, after the expiration of such time, during which the bank neglects to make and send in such return. 53 V., c. 31, s. 85.
- Penalty.
- Not making returns required by Minister. **148.** Every bank which neglects to make and send to the Minister, within thirty days from the date of the demand therefor by the Minister, or, if such time is extended by the Minister, within such extended time, not exceeding thirty days, as the Minister may allow, any special return, signed in the manner and by the persons by this Act required, which, under the provisions of this Act, the Minister may, for the purpose of affording a full and complete knowledge of the condition of the bank, call for, shall incur a penalty of five hundred dollars for each and every day during which such neglect continues. 53 V., c. 31, s. 86.
- Penalty.

149. Every bank which neglects to transmit or deliver to the Minister, within twenty days after the close of any calendar year, a return, signed in the manner and by the persons and setting forth the particulars by this Act required in that behalf, of all drafts or bills of exchange issued by the bank to any person and remaining unpaid for more than five years prior to the date of such return, shall incur a penalty of fifty dollars for each and every day during which such neglect continues. Bank not making annual returns as to drafts, etc. Penalty.
63-64 V., c. 26, s. 21.

150. Every bank which neglects to transmit or deliver to the Minister, within twenty days after the close of any calendar year, a certified list, as by this Act required, showing,—
(a) the names of the shareholders of the bank on the last day of such calendar year, with their additions and residences;
(b) the number of shares then held by such shareholders respectively; and,
(c) the value at par of such shares;
shall incur a penalty of fifty dollars for each and every day during which such neglect continues. Not returning annual list. Penalty.
53 V., c. 31, s. 87.

151. Every bank which neglects to transmit or deliver to the Minister, within twenty days after the close of any calendar year, a return, signed in the manner and by the persons by this Act required, of all dividends which have remained unpaid for more than five years, and also of all amounts or balances in respect of which no transactions have taken place, or upon which no interest has been paid, during the five years prior to the date of such return, and setting forth such further particulars as are by this Act required in that behalf, shall incur a penalty of fifty dollars for each and every day during which such neglect continues. Not making annual returns of dividends and balances. Penalty.

2. The said term of five years shall, in case of moneys deposited for a fixed period, be reckoned from the date of the termination of such fixed period. Period of 5 years.
53 V., c. 31, s. 88.

152. If any return or list, mentioned in either of the last five preceding sections, is transmitted by post, the date appearing, by the post office stamp or mark upon the envelope or wrapper inclosing the return or list received by the Minister, as the date of deposit in the post office of the place at which the chief office of the bank was situated, shall be taken *prima facie*, for the purpose of any of the said sections, to be the day upon which such return or list was transmitted to the Minister. Date of posting return or list.
53 V., c. 31, ss. 85 and 86; 63-64 V., c. 26, s. 22.

153. The making of any wilfully false or deceptive statement in any account, statement, return, report or other document respecting the affairs of the bank is an indictable offence punishable, unless a greater punishment is in any case by law prescribed.
Making false statement in account, return, etc.

- Penalty.** prescribed therefor, by imprisonment for a term not exceeding five years.
- Liability of officers.** 2. Every president, vice-president, director, auditor, manager, cashier or other officer of the bank, who,—
- (a) prepares, signs, approves or concurs in any such account, statement, return, report or document containing such false or deceptive statement; or
- (b) uses the same with intent to deceive or mislead any person;
- Offence.** shall be held to have wilfully made such false or deceptive statement, and shall further be responsible for all damages sustained by any person in consequence thereof. 53 V., c. 31, s. 99.
- Damages.**

Calls in the Case of Suspension of Payment.

Director refusing to make.

- 154.** (a) If any suspension of payment in full, in specie or Dominion notes, of all or any of the notes or other liabilities of the bank continues for three months after the expiration of the time which, under the provisions of this Act, would constitute the bank insolvent; and,
- (b) if no proceedings are taken under any Act for the winding-up of the bank; and,
- (c) if any director of the bank refuses to make or enforce, or to concur in the making or enforcing of any call on the shareholders of the bank, to any amount which the directors deem necessary to pay all the debts and liabilities of the bank;

such director shall be guilty of an indictable offence, and liable,—

- Penalty.** (a) to imprisonment for any term not exceeding two years; and,
- (b) personally for any damages suffered by any such default. 53 V., c. 31, s. 92.

Undue Preference to the Bank's Creditors.

President, etc., giving undue preference to any creditor.

- 155.** Every person who, being the president, vice-president, director, manager, cashier or other officer of the bank, wilfully gives or concurs in giving to any creditor of the bank any fraudulent, undue or unfair preference over other creditors, by giving security to such creditor, or by changing the nature of his claim, or otherwise howsoever, is guilty of an indictable offence, and liable,—

- Penalty.** (a) to imprisonment for a term not exceeding two years; and,
- Damages.** (b) for all damages sustained by any person in consequence of such preference. 53 V., c. 31, s. 97.

The Using of the Title 'Bank,' etc.

Unauthorized use of title.

- 156.** Every person assuming or using the title of 'bank,' 'banking company,' 'banking house,' 'banking association' or 'banking

'banking institution,' without being authorized so to do by this Penalty. Act, or by some other Act in force in that behalf, is guilty of an offence against this Act. 53 V., c. 31, s. 100.

Penalty for Offence against this Act.

157. Every person committing an offence, declared to be an offence against this Act, shall be liable to a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding five years, or to both, in the discretion of the court before which the conviction is had. 53 V., c. 31, s. 101.

PROCEDURE.

158. The amount of all penalties imposed upon a bank for any violation of this Act shall be recoverable and enforceable, with costs, at the suit of His Majesty instituted by the Attorney General of Canada, or by the Minister.

2. Such penalties shall belong to the Crown for the public uses of Canada: Provided that the Governor in Council, on the report of the Treasury Board, may direct that any portion of any penalty be remitted, or paid to any person, or applied in any manner deemed best adapted to attain the objects of this Act, and to secure the due administration thereof. 53 V., c. 31, s. 98.

SCHEDULE A.

1. The Bank of Montreal.
2. The Bank of New Brunswick.
3. The Quebec Bank.
4. The Bank of Nova Scotia.
5. The St. Stephen's Bank.
6. The Bank of Toronto.
7. The Molsons Bank.
8. The Eastern Townships Bank.
9. The Union Bank of Halifax.
10. The Ontario Bank.
11. La Banque Nationale.
12. The Merchants Bank of Canada.
13. La Banque Provinciale du Canada.
14. The People's Bank of New Brunswick.
15. The Union Bank of Canada.
16. The Canadian Bank of Commerce.
17. The Royal Bank of Canada.
18. The Dominion Bank.

377

19.

R.S., 1906.

SCHEDULE C.

In consideration of an advance of.....dollars made by the.....Bank to A. B., for which the said Bank holds the following bills or notes: (*describe the bills or notes, if any*), [or, in consideration of the discounting of the following bills or notes by the.....Bank for A. B.: (*describe the bills or notes*),] the goods, wares and merchandise mentioned below are hereby assigned to the said Bank as security for the payment on or before the.....day of.....of the said advance, together with interest thereon at the rate of....per centum per annum from the.....day of.....(*or, of the said bills or notes, or renewals thereof, or substitutions therefor, and interest thereon, or as the case may be*).

This security is given under the provisions of section eighty-eight of the Bank Act, and is subject to the provisions of the said Act.

The said goods, wares and merchandise, are now owned by....., and are now in the possession of....., and are free from any mortgage, lien or charge thereon (*or as the case may be*), and are in (*place or places where the goods are*), and are the following (*description of goods assigned*).

Dated, etc.

(*N.B.—The bills or notes and the goods, etc., may be set out in schedules annexed.*)

63-64 V., c. 26, s. 46 and sch. C.

SCHEDULE D.

Return of the liabilities and assets of the	bank on
the day of , A.D.	
Capital authorized..	\$
Capital subscribed.....	
Capital paid up..	
Amount of rest or reserve fund..	
Rate per cent of last dividend declared.. . .	per cent.

LIABILITIES.

1. Notes in circulation.. \$
2. Balance due to Dominion Government, after deducting advances for credits, pay-lists, etc.....
3. Balances due to provincial governments.. . .

4. Deposits by the public, payable on demand,
in Canada... .. \$
5. Deposits by the public, payable after notice
or on a fixed day, in Canada... ..
6. Deposits elsewhere than in Canada... ..
7. Loans from other banks in Canada, secured,
including bills rediscounted... ..
8. Deposits made by and balances due to other
banks in Canada... ..
9. Balances due to agencies of the bank, or to
other banks or agencies, in the United
Kingdom... ..
10. Balances due to agencies of the bank, or to
other banks or agencies, elsewhere than in
Canada and the United Kingdom... ..
11. Liabilities not included under foregoing
heads... ..

\$

ASSETS.

1. Specie... .. \$
2. Dominion notes... ..
3. Deposits with Dominion Government for
security of note circulation... ..
4. Notes of and cheques on other banks... ..
5. Loans to other banks in Canada, secured, in-
cluding bills rediscounted... ..
6. Deposits made with and balances due from
other banks in Canada... ..
7. Balances due from agencies of the bank, or
from other banks or agencies, in the United
Kingdom... ..
8. Balances due from agencies of the bank, or
from other banks or agencies, elsewhere
than in Canada and the United Kingdom.
9. Dominion Government and provincial govern-
ment securities... ..
10. Canadian municipal securities, and British,
or foreign, or colonial public securities,
other than Canadian... ..
11. Railway and other bonds, debentures and
stocks... ..
12. Call and short loans on stocks and bonds in
Canada... ..
13. Call and short loans elsewhere than in
Canada... ..
14. Current loans in Canada... ..
15. Current loans elsewhere than in Canada... ..

- | | | |
|-----|---|----|
| 16. | Loans to the Government of Canada.. . . . | \$ |
| 17. | Loans to provincial governments.. . . . | |
| 18. | Overdue debts.. . . . | |
| 19. | Real estate other than bank premises.. . . . | |
| 20. | Mortgages on real estate sold by the bank.. . . . | |
| 21. | Bank premises.. . . . | |
| 22. | Other assets not included under the foregoing heads.. . . . | |

\$

Aggregate amount of loans to directors, and firms of which they are partners, \$

Average amount of specie held during the month, \$

Average amount of Dominion notes held during the month,

Greatest amount of notes in circulation at any time during the month, \$

I declare that the above return has been prepared under my directions and is correct according to the books of the bank.

E. F.,
Chief Accountant.

We declare that the foregoing return is made up from the books of the bank, and that to the best of our knowledge and belief it is correct, and shows truly and clearly the financial position of the bank; and we further declare that the bank has never, at any time during the period to which the said return relates, held less than forty per centum of its cash reserves in Dominion notes.

(Place) this day of

A. B., *President.*
C. D., *General Manager.*

63-64 V., c. 26, s. 47 and sch. D.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's
most Excellent Majesty.



CHAPTER 30.

An Act respecting Savings Banks.

SHORT TITLE.

1. This Act may be cited as the Savings Banks Act. Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,— Definitions.
(a) 'Minister' means the Minister of Finance;
(b) 'agent' includes Assistant Receiver General. R.S.,
c. 121, s. 1.

DIVISION OF ACT.

3. This Act is divided into three parts. Part I. applies Division into
Parts. exclusively to the system of post office savings banks established by the Postmaster General with the consent of the Governor in Council. Part II. applies exclusively to savings banks established by the Governor in Council. Part III. is general, and is not confined to either kind of banks.

PART I.

POST OFFICE SAVINGS BANKS.

Establishment of Banks.

4. There shall continue to be a system of post office savings Continua-
tion of
system. banks established by the Postmaster General, with the consent of the Governor in Council, in connection with a central savings bank, established as a branch of the Post Office Department at the seat of the Government. R.S., c. 35, s. 65.

5. The Postmaster General may, with the consent of the Deposits and
repayment. Governor in Council, authorize and direct such postmasters as he thinks fit, to receive deposits for remittance to the office of the central savings bank, and to repay the same, under such regulations as he, with the sanction of the Governor in Council, prescribes in that respect. R. S., c. 35, s. 66.

Deposits.

Minimum. 6. No deposit shall be received of less amount than one dollar, nor of any sum not a multiple of a dollar. R.S., c. 35, s. 67.

Entry in depositor's book. 7. Every deposit received by any postmaster appointed for that purpose shall be entered by him at the time in the depositor's book, and the entry shall be attested by him and by the dated stamp of his office.

Acknowledgment. 2. The amount of such deposit shall, upon the day of such receipt, be reported by such postmaster to the Postmaster General, and the acknowledgment of the Postmaster General, signified by the officer whom he appoints for the purpose, shall be forthwith transmitted to the depositor. R.S., c. 35, s. 67.

Evidence of claim. 8. Such acknowledgment shall be conclusive evidence of the claim of the depositor to the payment of the deposit, with the interest thereon, upon demand made by him on the Postmaster General.

Conclusive evidence for limited time. 2. In order to allow a reasonable time for the receipt of the acknowledgment, the entry by the proper officer in the depositor's book shall also be conclusive evidence of the title, as respects a deposit made in any part of Canada, other than the province of British Columbia, Saskatchewan or Alberta, or the Northwest or Yukon Territories, for ten days from the making of the deposit, and as respects a deposit made in the province of British Columbia, Saskatchewan or Alberta, or the Northwest or Yukon Territories, for eighteen days from the making of the deposit.

Conclusive evidence for further time. 3. If such acknowledgment has not been received by the depositor through the post within such ten or such eighteen days respectively, and before or upon the expiry thereof he demands such acknowledgment from the Postmaster General, by letter addressed to him at Ottawa, then the entry in his book shall be conclusive evidence of title during another term of ten or eighteen days respectively, and *toties quoties*. R.S., c. 35, s. 67.

Seizure of money. 9. No sum of money deposited under this Part shall, while in the hands of any postmaster, or while in course of transmission to or from the Postmaster General, at any time be liable to demand, seizure or detention, under legal process against the depositor thereof. R.S., c. 35, s. 68.

Certificates of Deposit.

Amount and rate of interest. 10. The Postmaster General may, with the consent of the Governor in Council, whenever it is deemed expedient, issue certificates of deposit in sums of not less than one hundred dollars, and bearing interest at a rate not exceeding five per centum per annum, to depositors who, having like sums at the

credit of their ordinary deposit accounts, desire to transfer such sums from such ordinary deposit accounts to a special deposit account, represented by such certificates, and bearing the rate of interest specified therein.

2. Such certificates shall not be transferable, but shall be evidence of the depositor's claim upon such special deposit account to the amount expressed in such certificate, with the interest due thereon, and shall be redeemable upon such previous notice as is expressed therein, and shall in all respects be subject to such regulations as are made by the Postmaster General, with the sanction of the Governor in Council. R.S., c. 35, s. 74. Transfer and redemption.

Repayment.

11. On demand of the depositor, or person legally authorized to claim on account of the depositor, made in such form as is prescribed in that behalf by the Postmaster General, for repayment of any deposit or any part thereof, the authority of the Postmaster General for such repayment shall be transmitted to the depositor forthwith, and the depositor shall be entitled to repayment of any sum that is due to him with the least possible delay after his demand is made, at any post office where deposits are received or paid. R.S., c. 35, s. 69. Deposit to be repaid on demand.

12. All moneys transmitted to the central savings bank shall forthwith be paid over to the Minister, and shall be credited to an account called *Post Office Savings Bank Account*; and all sums withdrawn by depositors, or by persons legally authorized to claim on account of depositors, shall be repaid to them by the Minister through the Post Office Department, and charged to such account. R.S., c. 35, s. 71. Post Office Savings Bank Account.

Secrecy.

13. The postmasters and other officers of the post office engaged in the receipt or payment of deposits shall not disclose the name of any depositor or the amount deposited or withdrawn, except to the Postmaster General, or to such of his officers as are appointed to assist in carrying into operation the provisions of this Part. R.S., c. 35, s. 70. Disclosing name of depositor or amounts.

Regulations.

14. Except as in this Part otherwise specially provided, the Postmaster General may make regulations for superintending, inspecting and regulating the mode of keeping and examining the accounts of depositors, and with respect to the making of deposits, and to the withdrawal of deposits and interest, and all other matters incidental to carrying the provisions of this Part into execution by him. Accounts inspected. Deposits.

Legal effect
of regula-
tions.

2. All regulations so made shall be binding on the persons interested in the subject-matter thereof to the same extent as if such regulations were enacted in this Part.

Copies to be
laid before
Parliament.

3. Copies of all regulations issued under the authority of this Part shall be laid before both Houses of Parliament within fourteen days from the date thereof, if Parliament is then sitting, and if not, then within fourteen days after the next reassembling of Parliament. R.S., c. 35, s. 75.

Returns and Accounts.

Monthly re-
turns of re-
ceipts and
payments.

15. As soon as possible after the end of each month, the Postmaster General shall make a return to the Minister of all moneys received and paid during the preceding month, and of the total amount in deposit at the end of each month, and the Minister shall cause such monthly statement to be published in the *Canada Gazette*. R.S., c. 35, s. 76.

Annual ac-
count and
statement to
be laid be-
fore Parlia-
ment.

16. An annual account of all deposits received and paid under the authority of this Part and of the expenses incurred during the fiscal year, together with a statement of the total amount due at the close of the year to all depositors, shall be laid by the Postmaster General before both Houses of Parliament within ten days after the commencement of the next following session thereof. R.S., c. 35, s. 77.

Report.

Annual re-
port to Par-
liament.

17. The Postmaster General shall annually make to the Governor General, so that it may be laid before Parliament within ten days after the meeting thereof, in each session, a report made up to the close of the last preceding fiscal year containing a statement,—

Bank
transactions.

(a) of the bank transactions during the year, and of the total amount due at the close of the same to all depositors;

Losses.

(b) of the losses, if any, sustained during the year to which the report relates, in conducting the bank system. 52 V., c. 20, s. 12.

Offences and Penalties.

Forging de-
positor's
book.

18. Every one who forges, counterfeits or imitates any bank depositor's book, or authority of the Postmaster General for repayment of a bank deposit or of any part thereof, or any signature or writing in or upon any bank depositor's book, or authority of the Postmaster General for repayment of a bank deposit, or of any part thereof, with intent to defraud, is guilty of an indictable offence, and liable to imprisonment for any term not exceeding seven years, and not less than two years. R.S., c. 35, s. 87.

Penalty.

19. Every officer or connected with the bank system who converts to his own use in any way whatsoever, or uses by way of investment in any kind of property or merchandise, or lends, with or without interest, any portion of the public moneys entrusted to him as such officer for safe keeping, or transfer, disbursement or for any other purpose, shall be deemed to have stolen so much of the said moneys as is so taken, converted, invested, used or lent, and is guilty of an indictable offence. Conversion of money by officer.

2. Every person who advises or knowingly and willingly participates in such theft, is guilty of an indictable offence, and shall, for every such offence, forfeit and pay to His Majesty a fine equal to the amount of the money stolen, and shall be liable to imprisonment for a term not exceeding seven years and not less than three months. Accessory. Penalty. R.S., c. 35, s. 105.

Evidence.

20. The neglect or refusal by any such officer to pay over any public moneys aforesaid in his hands, or to transfer or disburse any such moneys promptly, on the requirement of the Postmaster General, shall be *prima facie* evidence of such conversion to his own use of so much of such public moneys as is so in the hands of such officer. Neglect or refusal to pay over moneys. R.S., c. 35, s. 105.

21. In any action or proceeding for the recovery of any penalty under this Part, the burden of proof that any thing proved to have been done by the defendant was done in conformity to or without violation of this Part, shall lie upon the defendant. Burden of proof. R.S., c. 35, s. 114.

PART II.

GOVERNMENT SAVINGS BANKS.

Establishment.

22. The Governor in Council may establish a savings bank at each of the cities of Toronto, Montreal, Halifax and St. John, and at any place within the provinces of Manitoba, British Columbia, Prince Edward Island, Saskatchewan and Alberta, and at any place within any province which shall hereafter form part of Canada. Establishing savings banks. R.S., c. 121, s. 2.

23. The Governor in Council may appoint a person who shall be called an Assistant Receiver General at any city or place where a savings bank is established. Assistant receivers general.

Management
of bank.

2. The Assistant Receiver General appointed for the city or place where a savings bank is established shall have the management of the same. R.S., c. 121, s. 2.

Branch sav-
ings banks
at other
places.

24. The Governor in Council may also establish branch savings banks in any places in the provinces of Nova Scotia and New Brunswick other than the cities of Halifax and St. John, and may appoint persons as agents for the management thereof. R.S., c. 121, s. 2.

Deposits—and Duties of Officers.

Receipt of
deposits and
repayment.

25. Every agent shall, under regulations from time to time made in that behalf by the Treasury Board with the approval of the Governor in Council, receive deposits of money on account of the Minister, and shall repay the same with interest to the depositor as hereinafter provided. R.S., c. 121, s. 3.

Deposits
with collec-
tors of Cus-
toms in New
Brunswick.

26. Such of the collectors of Customs in the province of New Brunswick as are authorized to receive deposits of money as savings shall continue to receive the same until other savings bank agents are appointed in their stead respectively, and shall be subject as agents to all the provisions of this Part. R.S., c. 121, s. 3.

Inspectors.

27. The Governor in Council may also appoint an inspector or inspectors to inspect, investigate and report upon the business which arises in carrying out the provisions of this Part.

Inspection
and investi-
gation.

2. The agent appointed to receive deposits, and all other persons who are employed under this Part, shall afford to such inspectors all needful facilities for such inspection and investigation.

Duties.

3. The duties and powers of such inspectors shall be such as are assigned to them under the regulations made under this Part. R.S., c. 121, s. 4.

Security by
officers.

28. Every agent, officer, clerk and servant employed under this Part, who is entrusted with and has the custody of any moneys or valuable securities, shall, before entering upon the duties of his office or employment, give such security for the faithful discharge of the same, and for the due accounting for all such moneys, as is required of him by the Treasury Board, and shall also take an oath or affirmation before a justice of the peace, faithfully to perform his said duties, in the form or to the effect following, that is to say:—

Oath to be
taken.

Form.

I, A. B., of _____, being duly sworn, swear,
(or do solemnly affirm) that so long as I am employed in
assisting to carry out the provisions of the Savings Banks Act,
relating to Government savings banks, I will perform faith-
fully

fully and to the best of my ability the duties that are assigned to me.

And I have signed,

Sworn (or affirmed) at this
day of , 19 , before me, A. B.,
justice of the peace for the of
R.S., c. 121, s. 5.

29. Every agent appointed to receive deposits may receive deposits from any person whatever, whether such person is qualified by law to enter into ordinary contracts or not: Provided that if the person who makes any such deposit could not, under the laws of the province where the deposit is made, by reason of some disability, deposit and withdraw money in and from a bank, the total amount of deposits to be received from such person shall not exceed the sum of five hundred dollars.

From whom deposits may be received.
Limit in certain cases.

2. Every such agent may from time to time, pay any or all of the principal of such deposits and the whole or any part of the interest thereon to such person, without the authority, aid, assistance or intervention of any person or official being required, any law, usage or custom to the contrary notwithstanding. R.S., c. 121, s. 6.

To whom repayment may be made.

30. Every depositor, on making his first deposit, shall declare his name, residence and occupation.

Address of depositor.

2. The persons employed in the receipt or payment of such deposits shall not disclose the name of any depositor, or the amount deposited or withdrawn, except to the Minister or to such of his officers as are appointed to assist in carrying into operation the provisions of this Part. R.S., c. 121, s. 7.

Secrecy as to.

31. Every such deposit received by such agent shall be entered by him, at the time, in a book to be kept by him for that purpose, and at the same time, shall be entered by him in a pass book to be furnished to the depositor.

Entry of deposits.

2. Subject to the provisions of the next following section, the entry in such pass book, attested by the signature or initials of the agent who receives the deposit, or of his deputy or clerk, shall be evidence of the claim of such depositor to the repayment thereof, with interest thereon, upon demand made during office hours by such depositor on such agent or his successor in office, at the office or place where such deposits are payable. R.S., c. 121, s. 8.

Evidence of claim to deposit.

32. Every agent shall report to the Minister, at such times and in such forms as are prescribed by the regulations under this Part, all deposits received by him.

Report to Minister.

2. At such times as are prescribed by the regulations made under this Part, but not at less intervals than the beginning of each calendar month, the officer appointed thereto by the Minister

Notice to be sent to depositor.

ter shall send, by mail, to each depositor, to the address given by him a notice stating the amount deposited by him since the statement of the same kind then last sent to him, if any, and the total amount then at his credit.

Liability of
Crown.

3. The amount mentioned in such notice, as at such depositor's credit and no more, shall be the amount for which the Crown shall be liable up to and including the last deposit therein mentioned, unless the depositor, within thirty days after the receipt of the same, notifies the Minister, in such manner as is prescribed by the regulations then in force, that there is some error in such notice and specifies the same.

Correcting
error.

4. In such case the true amount shall be ascertained, and the depositor shall be notified accordingly. R.S., c. 121, s. 8.

Payment
into bank.

33. Every agent shall, at such times as are prescribed by the regulations then in force, pay into the account of the Minister, at such bank as is prescribed by the Minister, all moneys received on deposit.

With-
drawals.

2. He shall pay all moneys which are withdrawn in such manner as by the said regulations is prescribed. R.S., c. 121, s. 9.

Detailed ac-
count to be
furnished to
the Minister.

34. Every agent shall also, at such times as are prescribed, transmit to the Minister, in such form as is prescribed by the Minister, a detailed account of the business of his office during the time that has elapsed since the transmission of his next preceding account. R.S., c. 121, s. 9.

Deposits.

35. All moneys deposited under this Part shall form part of the Consolidated Revenue Fund of Canada.

With-
drawals and
expenses.

2. All moneys and interest paid to depositors, and all expenses incurred in maintaining the savings banks established under this Part, shall be paid out of the Consolidated Revenue Fund of Canada. R.S., c. 121, s. 14.

Regulations.

By Governor
General.

36. The Governor in Council may make regulations in respect to,—

Withdrawal.

(a) the withdrawing of deposits and interest;

Accounts.

(b) the keeping, examining, inspecting, checking and reporting on the accounts of depositors;

Deposit
certificates.

(c) the issuing of deposit certificates and also respecting the payment or transmission thereof in case of infancy or in the case of marriage, death, bankruptcy or any change in title whatsoever;

Inspection.

(d) the duties and powers of inspectors appointed under this Part; and,

General.

(e) all other matters which the Governor in Council deems incidental to the carrying of this Part into effect.

2. Such regulations may prescribe how and in what manner any payment or transmission aforesaid shall be made and what declaration, documents or other evidence shall be necessary and sufficient as proof in that behalf. R.S., c. 121, s. 15. Additional provision as to.

37. All regulations so made shall be binding on the persons interested in the subject-matter thereof, to the same extent and as fully to all intents and purposes, as if such regulations were enacted in this Part. To be binding.

2. Such regulations, and all amendments thereof, shall be published in such way as the Governor in Council directs. Publication.

3. Any copy of such regulations published as aforesaid shall be evidence thereof. R.S., c. 121, s. 15. Evidence of.

38. Copies of all regulations made under the authority of this Part shall be laid before both Houses of Parliament by the Minister, within fourteen days after the commencement of the session held next following the making of such regulations. R.S., c. 121, s. 15. Copies to be laid before Parliament.

Statement and Accounts.

39. As soon as possible after the end of each month, the Minister shall prepare and insert in the *Canada Gazette* a statement of all moneys received or deposited and withdrawn during the preceding month, and of the total amount on deposit at the end of the preceding month, and the rate of interest payable on the same. R.S., c. 121, s. 16. Monthly statements to be published.

40. Within ten days from the commencement of the first session of Parliament after the close of each financial year, an account of the expenses incurred, and of the amount of deposits received and paid, and of the total amount at the close of the financial year due to all depositors, shall be laid before both Houses of Parliament by the Minister. R.S., c. 121, s. 17. Accounts to be laid before Parliament.

Offences and Penalties.

41. Every agent appointed to receive deposits, as aforesaid, and every officer, clerk or servant employed under the provisions of this Part, who defaces, alters, erases, or in any manner or way whatsoever, changes the effect of the books of account that are kept under the provisions of this Part, or any entry in the said books of account, for any fraudulent purpose, and every such agent, officer, clerk or servant who secretes, appropriates or steals any bond, obligation, bill or note, or any security for money, or any moneys or effects entrusted to him, or in his custody, or to which he has obtained access, as such agent, officer, clerk or servant, to whomsoever the said property belongs, is guilty of an indictable offence and liable to imprisonment for life. R.S., c. 121, s. 19. Alteration of books.
Theft.
Penalty.

Persons
falsely pre-
tending to
be owners of
deposits.

42. Every person who, with intent to defraud, falsely pretends to be the owner of any deposit made under this Part, or of the interest upon such deposit, or of any part of such deposit or interest, and who is not such owner, and who demands or claims from the agent with whom such deposit has been made, or from any other person employed under this Part, the payment of such deposit or interest, or of any portion thereof, as the case may be, and whether he does or does not thereby obtain any such deposit or interest, or any part thereof, is guilty of an indictable offence, and shall be punishable accordingly. R.S., c. 121, s. 20.

Penalty.

PART III.

GENERAL.

Interest not
to exceed
4 p. c. per
annum.

43. The interest payable to the persons making deposits under this Act shall be at such rate, not exceeding the rate of four per centum per annum, as the Governor in Council from time to time prescribes.

Minimum
amount and
time for
interest.

2. Such interest shall not be calculated on any amount less than one dollar or some multiple thereof and shall not commence until the first day of the month next following the day of deposit, and shall cease on the first day of the month in which such deposit is withdrawn. 51 V., c. 8, ss. 1 and 2.

Interest
added to
deposits.

44. On the thirtieth day of June in every year the interest on deposits shall be added to and become part of the principal money. R.S., c. 35, s. 73; R.S., c. 121, s. 11.

Execution of
trusts.

45. No officer of the Government of Canada shall be bound to see to the execution of any trust, whether expressed, implied or constructive to which any deposit made under the authority of this Act is subject.

Receipt a
discharge
when.

2. The receipt of the person in whose name any such deposit stands, or, if it stands in the name of more than one person, the receipt of any one of such persons shall be a sufficient discharge to all persons concerned for the payment of any money payable in respect of such deposit, notwithstanding any trust to which such deposit is then subject, and whether or not the agent or postmaster sought to be charged with such trust, and with whom the deposit was made, or his successor, had notice thereof.

Application
of money.

3. No agent or postmaster or any other officer of the Government shall be bound to see to the application of the money paid upon such receipt. R.S., c. 121, s. 12.

Certain pay-
ments valid.

46. Every payment made in good faith to any person who appears *prima facie*, by the production of a declaration in writing and documents in support thereof, made under the provisions

sions of this Act, or any regulation made thereunder, to be entitled to any deposit or interest, shall be valid and shall discharge the Crown and the agent or postmaster with whom the deposit has been made, and his successors, and all who might otherwise be liable, from all or any claim by any person whomsoever, for such deposit or interest. R.S., c. 121, s. 13. Discharge.

47. The Minister shall hold, for the purpose of securing the repayment of deposits made in banks under this Act, an amount in gold, or in gold and Canada securities guaranteed by the Government of the United Kingdom, equal to not less than ten per centum of the total amount of such deposits as such amount is ascertained from time to time. 3 E. VII., c. 62, s. 1. Reserve against deposits.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.



CHAPTER 31.

An Act respecting Penny Banks.

SHORT TITLE.

1. This Act may be cited as the Penny Bank Act. Short title.

INTERPRETATION.

2. In this Act unless the context otherwise requires,— Definitions.

- (a) 'bank' means a corporation constituted by letters patent issued under this Act;
(b) 'board' means the board of directors of such corporation;
(c) 'guarantee fund' means the fund in this Act required to be established and maintained by the bank as security for the purpose in that behalf in this Act set forth. 3 E. VII., c. 47, ss. 2 and 27.

3. The banks incorporated under this Act shall be deemed Banks deemed sav-
ings banks. savings banks within the meaning of the Winding-up Act. 3 E. VII., c. 47, s. 19.

4. The bank shall not be deemed a bank within the mean- Not a bank
under Bank
Act. ing of the Bank Act. 3 E. VII., c. 47, s. 25.

INCORPORATION AND ORGANIZATION.

5. The Governor in Council may by letters patent grant a Incorporation by let-
ters patent. charter to any number of persons, not less than five, who petition therefor, constituting such persons a body corporate under this Act, with the powers and subject to the restrictions and conditions hereinafter declared: Provided that no such charter Condition. shall be granted by the Governor in Council unless the granting thereof has been first recommended by the Minister of Finance. 3 E. VII., c. 47, s. 3.

6. Notice of the granting of letters patent under this Act Notice in
Canada
Gazette. shall be forthwith given by the Secretary of State in the *Canada Gazette*.

2. From the date of such letters patent the persons thereby Date of in-
corporation. constituted a corporation, and such other persons as become members of the corporation as provided by this Act, shall be a corporation by the name mentioned in the letters patent.

Powers. 3. The corporation shall have and may exercise the powers conferred upon it by this Act subject to the provisions hereof. 3 E. VII., c. 47, s. 6.

Name of bank. 7. The letters patent shall declare,—
(a) the name of the bank;

Of directors. (b) the names of the provisional directors of the bank;

Chief office. (c) the place, being a place in Canada, where the chief office of the bank is to be situate.

Penny Bank. 2. The name of the bank declared by the letters patent, shall include the words *Penny Bank*, as *The Penny Bank*, or *The Penny Bank of* , but such name shall not be the name of any existing corporation, or a name liable to be confounded with that of an existing corporation.

Number of directors. 3. The persons named in the letters patent as provisional directors shall not be less than five in number and shall hold office until directors are elected by members of the bank as hereinafter provided. 3 E. VII., c. 47, s. 7.

Election of directors. 8. So soon as the guarantee fund has been established as hereinafter provided, the provisional directors shall call a meeting of the members of the bank to elect directors, and shall at such meeting elect not less than five in number.

The board. 2. The directors so elected shall constitute the board of directors, and shall take the place of the provisional directors.

Eligibility. 3. The provisional directors shall be eligible for election on the board. 3 E. VII., c. 47, s. 8.

Commencement of business. 9. The bank shall not begin business until after the guarantee fund has been established, nor until after directors have been elected as provided for in the last preceding section, nor until a certificate has been issued under the direction of the Treasury Board permitting the bank to carry on business under this Act.

Certificate. 2. No such certificate shall be issued except within one year from the date of the letters patent incorporating the bank, nor except on proof by affidavit or otherwise to the satisfaction of the Treasury Board that all the requirements of this Act have been complied with.

Forfeiture of powers. 3. In the event of the bank not obtaining a certificate from the Treasury Board within the period of one year aforesaid, the letters patent of incorporation and all rights, powers and privileges of the bank conferred thereby, or by this Act, shall cease and determine and be of no further force or effect. 3 E. VII., c. 47, s. 9.

RULES AND REGULATIONS.

Regulations. 10. The Minister of Finance may, with the approval of the Treasury Board, from time to time, make rules and regulations respecting the forms and proceedings and all other matters

requisite for incorporating banks under this Act, and for carrying out the other provisions of this Act, and may, with such approval, alter, repeal, annul or change any or all of such rules or regulations.

2. Except as to the requirements of this Act regarding,—
- (a) the number of persons to whom a charter may be granted under this Act; and,
 - (b) the recommendation by the Minister of Finance hereinbefore specified as a condition precedent to the granting of a charter;

Exceptions as to regulations being directory.

such rules and regulations shall be deemed to be directory only.

3 E. VII., c. 47 ss. 4 and 5.

PRELIMINARY MATTERS.

11. No letters patent issued under authority of an order of the Governor in Council on the recommendation of the Minister of Finance shall be held to be void or voidable on account of any irregularity or otherwise in respect of any matter, notice, or proceeding preliminary to the making of such recommendation by the Minister of Finance or the passing of such order of the Governor in Council. 3 E. VII., c. 47, s. 5.

Irregularities.

INTERNAL REGULATION.

12. The affairs of the bank shall be managed and administered by and under the authority of the board. Directors.

2. Subject to the provisions of the by-laws, directors shall hold office until their successors are elected; and in default of regulation otherwise by by-law any member of the bank shall be eligible to be a director of the bank. Continuation in office.

3. If the seat of a director elected by the members as hereinafter provided becomes vacant between annual meetings such vacancy may be filled by the board, and if the seat of a director elected by a workers' association as hereinafter provided becomes so vacant such vacancy shall be filled by the workers' association. 3 E. VII., c. 47, ss. 10 and 16. Vacancy.

13. A general meeting of the members of the bank shall be held during each calendar year for the election of directors, and for transaction of all or any business which the members in general meeting may lawfully transact. Annual meeting of members.

2. Such general meeting shall be held on such day and at such time and place as are prescribed by by-law in that behalf, or in default of such by-law on such day and at such time and place as the board names. Time and place.

3. Special meetings of the members may be called at any time by the board as provided for in the by-laws of the bank for the transaction of such business as is set forth in the notice calling such meeting. Notice.

Voting.

4. At all meetings of such members each member shall have one vote for each one hundred dollars of his subscription or payment to the said fund, and members may vote by proxy. 3 E. VII., c. 47, ss. 11 and 16.

Mailing notice.

14. In default of other provisions by by-law, notices of all meetings under this Act shall be mailed to each member of the bank at least two weeks previous to the day appointed for the holding of such meeting. 3 E. VII., c. 47, s. 12.

Remuneration for services.

15. The directors or the members of the voluntary workers' associations shall not be entitled to receive any remuneration for their services as such directors or members, and no profits shall at any time be divided among or paid to members of the bank. 3 E. VII. c. 47, s. 15.

BY-LAWS.

By-laws.

16. The board may, from time to time, make by-laws not contrary to law relating to the conduct of the affairs of the bank as to,—

- Directors. (a) the number of directors from time to time, such number to be not less than five;
- Directors. (b) the terms of service and qualifications of directors;
- Officers. (c) the appointment, functions, duties and removal of all officers, agents and servants of the bank;
- Security. (d) the security to be given by officers, agents and servants of the bank and their remuneration;
- Meetings. (e) the day, time and place for holding the annual meeting of the members of the bank;
- Notice. (f) the calling of meetings, regular and special, of the board and of the members of the bank, and the notice to be given of any such meeting;
- Quorum. (g) the quorum at any such meeting;
- Proxies. (h) the requirements as to proxies;
- Procedure. (i) the procedure in all things at any such meeting;
- Calls. (j) the making of calls on subscribers to the guarantee fund;
- Workers' associations. (k) the organization and constitution of one or more associations of workers as hereinafter mentioned;
- Deposits. (l) the receipt and repayment of deposits or interest thereon; and,
- Generally. (m) the conduct in all other particulars of the affairs of the bank. 3 E. VII., c. 47, s. 13.

Confirmation of by-laws.

17. Every by-law made by the board, and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a special meeting of the members of the bank duly called for that purpose, shall only have force until the next annual meeting of the members of the bank, and in default

fault of confirmation thereat shall at and from that time cease to have force.

2. If any by-law or part thereof be by resolution expressly disaffirmed, no new by-law of the same or like effect to that disaffirmed shall have any force until confirmed at a special meeting or at an annual meeting of the members of the bank. Disaffirmance.

3. The members of the bank may, either at a special meeting, or at the annual meeting, repeal, amend, vary or otherwise deal with any by-law which has been passed by the directors. Repeal.

4. No act done or right acquired under any by-law shall be prejudicially affected by any such want of confirmation, disaffirmance, repeal, amendment, variation or other dealing. Acts done. 3 E. VII., c. 47, s. 14.

MEMBERS AND VOLUNTARY WORKERS.

18. The members of the bank shall consist of the persons who subscribe or pay to the guarantee fund hereinafter mentioned the sum of at least one hundred dollars. Membership.

2. A subscriber whose liability for his unpaid subscription ceases and determines as hereinafter provided, shall, from the time such liability so ceases and determines, cease to be a member of the bank. Ceasing when. 3 E. VII., c. 47, s. 16.

19. The board may, from time to time, make calls upon the members of the bank on account of their respective subscriptions to the guarantee fund for such amount as may be required for the payment of any losses which may arise from time to time, and of any expenses and disbursements for which the bank may be liable, which losses, expenses and disbursements it may not otherwise be able to pay. Liability of members.

2. Upon such calls being made the members shall respectively be liable to pay, and shall respectively pay, the amounts thereof to the bank, but not exceeding in all the respective amounts of their respective subscriptions to the guarantee fund remaining unpaid. Calls. 3 E. VII., c. 47, s. 17.

20. The liability of a member of the bank for his unpaid subscription to the guarantee fund shall, subject to the provision of the next following section, cease and determine,— Cessation of liability.

- (a) upon his death; Death.
- (b) upon his being declared by competent authority to be a lunatic or of unsound mind; Insanity.
- (c) upon his procuring another subscriber to the guarantee fund, to be approved and accepted by the board, for an amount equal to or greater than the amount for which he himself is liable as subscriber to the said fund. Substitution. 3 E. VII., c. 47, s. 18.

21. Notwithstanding the provisions of the last preceding section, the liability of a member of the bank shall not cease Liability in case of

winding-up
of bank.

and determine as therein provided, if within the period of sixty days from the time when under such section such liability would determine, proceedings are taken for the winding-up of the bank.

Continuation
of.

2. In such case the liability of such member, or of his legal representatives, shall continue, and he or they shall be liable to contribute, and shall contribute, to the assets of the bank such amount, not exceeding the amount of such unpaid subscription, as may be required to provide for payment of the debts and liabilities of the bank to depositors and others, and for the payment of the costs, charges and expenses of winding-up the bank, and for the adjustment of the rights of the contributories amongst themselves. 3 E. VII., c. 47, s. 19.

Workers'
associations.

22. The board may, from time to time, by by-law, constitute and organize one or more associations of voluntary workers in connection with the carrying on and administration of the business of the bank, and may define the powers and duties of such associations, and prescribe the number of directors to be elected by such associations, and the manner of election, and the filling of vacancies, and such other details in connection with such associations, and the organization and working thereof, as may be deemed expedient.

Powers.

2. When and so soon as such powers and duties shall have been prescribed the said associations shall be entitled to and have the right and authority to elect such number of directors as may be prescribed. 3 E. VII., c. 47, s. 20.

Bank may
receive de-
posits.

23. The bank may receive deposits of money on such terms as the board or the by-laws of the bank prescribe, and such deposits may be received from any person of whatever age, status or condition of life, and whether such person is qualified by law to enter into contracts or not.

Maximum.

2. No deposit shall be received which would make the amount at the credit of the account in respect of which the deposit is offered exceed three hundred dollars, and not more than one account shall be kept with the same depositor, and in no case shall interest be paid or allowed to depositors in the bank in excess of the current rate paid to depositors in the Government savings banks or in the Post Office savings banks. 3 E. VII., c. 47, s. 21.

Rate of
interest.

Certain pay-
ments valid.

24. Any payment of the whole or part of any deposit or of any interest thereon, not exceeding one hundred dollars, made in good faith and in accordance with the by-laws of the bank, shall discharge the bank from any claim by any person whomsoever in respect of the deposit or interest so paid, notwithstanding that the person making the deposit may have died, or become insane, or become otherwise incapacitated, and that there is or is not a person qualified to represent such person, or

that such person cannot be found, or that some person other than the person to whom such payment is made may claim to be or be entitled to such deposit or interest.

2. Upon the book or other paper given to the depositor representing the deposit, or in or on which the deposit is entered, there shall be a printed copy of the last preceding subsection. Copy of subsection.
3 E. VII., c. 47, s. 22.

25. The bank may of the moneys received on deposit by it hold for the purpose of paying withdrawals such amount as the directors determine, not exceeding the sum of five per centum of the total amount of deposits in the bank. Bank may hold five per cent of deposit.

2. All moneys received on deposit and on hand at any time in excess of such amount shall be deposited by the bank in a Government savings bank or in a post office savings bank to the credit of the bank. Deposits where.

3. Interest on the amounts from time to time at the credit of the bank in the said Government savings bank or post office savings bank shall be allowed and credited half-yearly to the account of the bank at a rate to be from time to time fixed and determined by the Minister of Finance, such rate not to exceed one-half of one per centum in advance of the rate then payable to depositors in the said Government savings bank or post office savings bank. 3 E. VII., c. 47, s. 23. Interest payable by Government.

26. The board may withdraw from the account of the bank in the Government savings bank, or in the post office savings bank, and apply towards payment of the working expenses or for the purpose of augmenting the guarantee fund of the bank such portion of the interest credited to the account of the bank, as in the last preceding section provided, as represents the excess of the interest so credited over the interest paid or allowed by the bank to depositors therein. Exceptional withdrawal.

2. Except as aforesaid the moneys so at credit of the bank in the Government savings bank or in the post office savings bank shall be withdrawn by the bank only for the purpose of the payment of withdrawals by depositors in the bank of amounts deposited by them, and interest thereon, and shall be used and applied by the bank only for such purpose. 3 E. VII., c. 47, s. 24. Withdrawal generally.

27. The bank shall not,—

- (a) issue any bank note or note intended to circulate as money or as a substitute for money; Powers. Bank notes.
- (b) deal in, discount or lend money or make advances upon, the security of bills of exchange or promissory notes; Loans.
- (c) except as hereinafter provided, acquire any real estate; Real estate.
- (d) invest, lend or dispose of any moneys received by it; Investments.
- nor,
- (e) except as especially provided in this Act, engage or be engaged in any trade or business. 3 E. VII., c. 47, s. 25. Trade or business.

Assuming
work of
existing
association.

28. The bank may acquire the assets and assume the liabilities of any existing savings association for benevolent purposes and may take up and carry on the work of such association, and the corporation or persons holding the deposits or assets thereof may transfer and hand over the same to the bank in pursuance of any agreement which may be entered into respecting the acquisition thereof.

Discharge in
such case.

2. Upon such transfer being made the transferrers shall, to the extent of the assets and deposits so transferred, be discharged from all liability in respect of the said deposits and assets, and such liability shall thereafter be assumed by the bank. 3 E. VII., c. 47, s. 26.

Disposition
of assets of
associations.

29. The bank shall, with as little delay as possible, but within one year after such transfer as aforesaid takes effect, convert into cash and deposit in a government savings bank or in a post office savings bank in its own name so much of the said assets as shall be equal to the amount of deposits in the association so acquired and interest thereon, and the remaining portion of such assets shall be appropriated towards the working expenses of the bank, or shall become a part of the guarantee fund of the bank, as the directors may determine, or as may be specified in the agreement of transfer.

Conversion
into cash.

2. If any portion of such assets, becoming a part of the guarantee fund, be invested in any security not authorized by this Act for investments of the guarantee fund such portion shall as quickly as possible be converted into cash and invested as prescribed by this Act. 3 E. VII., c. 47, s. 26.

Deposit
during
meantime.

30. Until the portion of such assets which consists of securities is converted into cash, such securities shall be deposited with the Minister of Finance pending the realization thereof into cash as aforesaid.

Liability of
Minister.

2. The Minister shall not incur any liability or responsibility in respect thereof, or in connection with any sale thereof. 3 E. VII., c. 47, s. 26.

GUARANTEE FUND.

Guarantee
fund by the
bank.

31. A guarantee fund shall be established and maintained by the bank for the purpose of securing the repayment of the deposits made in the bank and interest thereon, and the payment of all other debts and liabilities of the bank incurred in the management of the business thereof, in the event of the funds in the hands of the board for the purpose of paying such deposits, interest, and other debts and liabilities, being insufficient to pay the same, or in the event of the bank being wound up. 3 E. VII., c. 47, s. 27.

The fund.
Moneys and
securities.

32. The said fund shall consist of,—

(a) all moneys and securities received by or paid to the bank, other than deposits and interest thereon, and other

than moneys specifically appropriated by this Act, or by the person from whom they are received, for the working expenses of the bank or for any other purpose in connection with the bank other than the guarantee fund;

(b) securities and investments in which the bank is by this Act authorized to invest the moneys of the fund; Investments.

(c) the unpaid amounts of all subscriptions to the said fund under an agreement of guarantee in the form in the schedule to this Act, or an agreement to the like effect. Subscriptions.

2. The bank may accept and receive all bequests and gifts to the said fund, and all bequests and gifts for the working expenses of the bank and for any other object or purpose in connection with the bank. Bequests and gifts.
3 E. VII., c. 47, s. 28.

33. The bank may invest the moneys of the guarantee fund in, or lend such moneys upon,— Investments.

(a) annuities, bonds, debentures, stocks or other securities of the Government of the Dominion of Canada, or of any of the provinces of Canada; Government securities.

(b) bonds or debentures of any municipal corporation of any city or town in Canada having, according to the last preceding government official census, a population exceeding ten thousand inhabitants, or of the municipal corporation of any county or township in any province of Canada having, according to such census, a population of over twenty thousand inhabitants; Municipal debentures.

(c) shares in the capital stock of any incorporated trust company doing business in Canada having, according to its last preceding annual statement submitted to its shareholders, a reserve fund or rest amounting to at least twenty per centum of its capital, and having its stock marketable above par; Shares of trust companies.

(d) the bonds or debentures secured by mortgage of any telegraph company, telephone company, electric lighting company, gas company, hydraulic or electric power company, electric street railway company, or electric or steam railway company, incorporated under the laws of the Dominion of Canada, or of any province thereof, or of the late province of Canada, or of Upper Canada or Lower Canada, or of the provinces of New Brunswick, Nova Scotia, British Columbia or Prince Edward Island before confederation, or of the United Kingdom, or of the United States, or any state thereof, if the gross income of such company, according to its last preceding annual statement submitted to its shareholders, is at least five hundred thousand dollars per annum, and if such company has paid regular dividends upon its ordinary or its preferred stock for the next preceding two years; Debentures of other companies.

(e) any securities upon which trustees are by the laws of the province in which the head office of the bank is situated authorized to invest trust moneys; Approved securities.

Real estate. (f) such freehold or leasehold real estate, movable and immovable property, as is required for the actual use and occupation of the bank and for the management of its business.

Sale of same. 2. The bank may sell and dispose of any such real estate, movable or immovable property. 3 E. VII., c. 47, s. 29.

Amount of fund. **34.** The guarantee fund shall be deemed to be established and to be maintained when and so long as it amounts to the sum of at least ten thousand dollars in any or all of the following:—

Cash. (a) Cash;

Securities. (b) Securities authorized by the last preceding section, taken at their market value, other than such freehold or leasehold real estate, movable and immovable property, as is required for the actual use and occupation of the bank and for the management of its business;

Subscription. (c) Unpaid subscriptions, if the payment, when required, of such amount thereof as will make, with cash and securities as hereinbefore provided, the guarantee fund amount to not less than ten thousand dollars, is secured and guaranteed by the bond of a company authorized to transact in Canada the business of a guarantee company and authorized to give such bond. 3 E. VII., c. 47, s. 30.

Winding-up bank not maintaining fund. **35.** Should the bank fail for six consecutive months to maintain such fund within the meaning of this Act, the bank shall cease to receive deposits and shall be wound up: Provided that the Treasury Board may, on the application of the bank made before the expiration of that period, grant an extension thereof for a further period not exceeding six months. 3 E. VII., c. 47, s. 31.

Disposal of fund and properties of the bank. **36.** The moneys received on account or in respect of the guarantee fund, or arising by way of interest from investment thereof, and all real estate or other property held by the bank and the proceeds thereof, shall be and remain the property of the bank and may, subject to the provisions of this Act in regard thereto being fully observed and complied with, be disposed of and dealt with by the bank as the Board determines. 3 E. VII., c. 47, s. 32.

STATEMENTS.

Statements to be transmitted to Minister of Finance. **37.** The bank shall transmit to the Minister of Finance statements showing the condition and business of the bank on the last juridical day in the months of June and December in each year, verified by the oath of the president, or of one of the vice-presidents of the bank, or of the chairman of the board, and of the manager or other chief officer of the bank.

2. To every such statement shall be annexed a certificate from a chartered accountant that he has examined and audited the books of the bank and that he finds that such statement is a true statement of the affairs of the bank at the date named therein. 3 E. VII., c. 47, s. 33.

To be certified by chartered accountant.

38. Such statements shall show,—

To show.

(a) the amount due depositors in the bank;

Deposits.

(b) the amount of the guarantee fund and the nature of the investments thereof;

Guarantee fund.

(c) the unpaid subscriptions and the amount thereof secured by a bond of a guarantee company distinguishing the class of securities and the amount of each class;

Unpaid subscription.

(d) all other assets and liabilities of the bank; and,

Assets.

(e) any other information as to the nature and extent of the business of the bank and in such detail as the Minister of

Other information.

Finance from time to time requires.

2. The bank shall in no case be bound to disclose the name or personal affairs of any person having dealings with the bank. 3 E. VII., c. 47, s. 34.

Secrecy.

39. The Minister of Finance may call for a special return from the bank in such form as he may determine at any time when in his judgment it is necessary or expedient. 3 E. VII., c. 47, s. 35.

Special returns.

OFFENCES AND PENALTIES.

40. Every president, vice-president, director, manager or other officer of the bank who wilfully disposes of or concurs in disposing of any moneys received by the bank, in a way not authorized by this Act for the disposition thereof, is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years. 3 E. VII., c. 47, s. 37.

Wrongfully disposing of moneys of bank.

41. Every person making any wilfully false or deceptive statement in any account, statement, return, report, certificate or other document respecting the affairs of the bank, is guilty of an indictable offence punishable by imprisonment for a term not exceeding five years, unless under some other Act or law the particular offence committed is punishable with imprisonment for a longer term.

False statement respecting affairs of bank.

2. Every president, vice-president, director, auditor, manager or other officer of the bank, and every chartered accountant, who prepares, signs, approves of or concurs in such account, statement, return, report, certificate or document, containing such false or deceptive statement, or uses any such account, statement, return, report, certificate or document with intent to deceive or mislead any person, shall be deemed to have wilfully made such false statement. 3 E. VII., c. 47, s. 38.

Making deemed wilful.

42. Every president, vice-president, director, auditor, manager or other officer of the bank, and every chartered accountant

Punishment.

Damages.

who prepares, signs, approves of, or concurs in such account, statement, return, report, certificate or document, or uses any such account, statement, return, report, certificate or document with intent to deceive or mislead any person, and every president, vice-president, director, manager or other officer of the bank, who wilfully disposes of or concurs in disposing of any moneys received by the bank in a way not authorized by this Act for the disposition thereof, shall, in addition to the punishment provided by this Act for such offence, be responsible for all damages sustained by any person in consequence of such act on his part. 3 E. VII., c. 47, ss. 37 and 38.

SCHEDULE.

GUARANTEE FUND.

Subscribers' Agreement.

We, the undersigned, do hereby respectively become subscribers to the Guarantee Fund of (*name of bank*) incorporated under the Penny Bank Act, to the respective amounts set opposite our respective signatures hereto, and we do hereby respectively agree with the said bank to pay from time to time such calls as may be made upon us respectively under the provisions of said Act, but not exceeding in all the respective amounts of our said subscriptions.

Signatures.	Addresses.	Amounts.

NOTE.—Subscriptions to the Guarantee Fund may be made upon one or more papers in the above form. 3 E. VII., c. 47, sch.

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CHAPTER 32.

An Act respecting certain Savings Banks in the Province of Quebec.

SHORT TITLE.

1. This Act may be cited as the Quebec Savings Banks Act. Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,— Definitions.
(a) 'bank' means either of the savings banks to which this Act applies;
(b) 'Minister' means the Minister of Finance. 53 V., c. 32, ss. 1, 31 and 33.

CHARTERS.

3. It shall be a condition of the rights and privileges conferred by this Act or by any Act in amendment thereof, that the liability of the bank under any law, custom or agreement to repay moneys deposited with it and interest if any and to pay dividends declared and payable on its capital stock, shall continue notwithstanding any statute of limitations or any enactment or law relating to prescription and that this condition shall apply to moneys heretofore or hereafter deposited and to dividends heretofore or hereafter declared. 53 V., c. 32, s. 33. Statutes of limitations or prescription not to run in favour of banks.

4. The charters of the Montreal City and District Savings Bank and of *La Caisse d'Economie de Notre-Dame de Québec* are hereby continued and shall remain in force until the first day of July in the year one thousand nine hundred and eleven, except in so far as they, or either of them, are or become forfeited or void under the terms thereof, or of this Act, or of any other Act heretofore or hereafter passed relating to the said savings banks by non-performance of the conditions of such charters or Acts respectively, or by insolvency, or otherwise. 63-64 V., c. 28, s. 1. Charters continued under certain conditions.

BANK MEETINGS.

5. Public notice shall be given by the directors of the bank of the holding of annual or other meetings by publishing the same for at least four weeks in a newspaper at the place where the head office of the bank is situate; and such notice shall be Notice of meetings.

given in both the English and French languages. 53 V., c. 32, s. 3.

Votes on shares.

6. At all meetings of the bank, every shareholder shall be entitled to one vote for each share then held by him which he shall have held for at least three months before the time of voting. 53 V., c. 32, s. 4.

Proxy.

7. Shareholders may vote by proxy, but no person but a shareholder shall vote or act as such proxy. 53 V., c. 32, s. 4.

Officers not to vote.

8. No cashier, clerk or other officer of the bank, shall vote either in person or by proxy, or hold a proxy for that purpose. 53 V., c. 32, s. 4.

DIRECTORS.

Qualification and election of directors.

9. The directors shall be elected annually at a general meeting of the shareholders and shall be eligible for re-election; but no person shall be elected a director unless he is a shareholder, at the time of such election, of twenty-five shares of stock. 53 V., c. 32, s. 4.

Insolvency.

10. Every director of the bank who becomes insolvent, or assigns his estate and effects for the benefit of his creditors, or absents himself, without the consent of the board, for twelve consecutive months from the meetings of the directors, or is convicted of any indictable offence, shall thereupon, *ipso facto*, cease to be a director, and the vacancy so created shall forthwith be filled up in the manner provided by the charter. 53 V., c. 32, s. 4.

Absence.

Crime.

Vacancy.

Failure to elect directors.

Procedure.

Interim powers.

11. No failure to elect directors of the bank shall operate a dissolution of the corporation, but in case of such failure the required election shall be made as soon thereafter as possible at a special general meeting of the shareholders called for that purpose; and until such subsequent election takes place, the official acts of the directors holding office shall be valid, and such directors shall call the said special general meeting. 53 V., c. 32, s. 5.

CALLS.

Calls on stock.

12. Whenever it is, in the opinion of the directors, necessary or expedient, they may make calls at intervals of not less than three months on the stock subscribed for and remaining unpaid, not exceeding five per centum; and all amounts paid upon stock, and all accumulated profits thereon after deduction of dividends as hereinafter provided, shall be invested or lent in the manner hereinafter provided for the investment or loan of moneys deposited with the bank: Provided that such limitation of the amount of any call, or of the intervals at which calls may

be made, shall not apply to calls in case of a deficiency of the funds of the bank to meet the claims of depositors and other liabilities. 53 V., c. 32, s. 6.

13. The amount of every such call, if not paid when due, may be recovered with interest by the directors, in the name of the bank, in any court having jurisdiction to such amount; and in any action for the recovery thereof it shall be sufficient to allege and prove the charter, and that the calls were made under this Act, and that the defendant is the holder of a share or shares in respect of which the amount is due without alleging or proving any other matter or thing whatsoever; and any copy of the charter, purporting to be certified as a true copy thereof by the Secretary of State of Canada, shall be deemed authentic and shall be *prima facie* evidence of the charter and of its contents thereof. 53 V., c. 32, s. 7. Recovery of calls.

14. In the event of the funds of the bank in money and assets immediately convertible into money becoming insufficient to satisfy its debts and liabilities, the directors shall make calls on the unpaid stock to the full amount not paid thereon or to such less amount as they deem necessary to pay all such debts and liabilities without waiting for the collection of any debts due to the bank or the sale of any of its assets or property; and each shareholder, until the whole amount of his stock has been paid up, shall be individually liable for any such insufficiency to an amount equal to that remaining unpaid on his said stock but not in excess of such amount so unpaid. 53 V., c. 32, s. 8. Voluntary assets.
Liability of shareholder.

15. In case of such insufficiency the first call shall be made within ten days after such insufficiency is ascertained and thereafter calls shall be made at intervals of thirty days and upon notice given at least thirty days prior to the day on which the call is payable. 53 V., c. 32, s. 8. First call.

16. No such call shall exceed twenty per centum on each share, and payment thereof may be enforced in the manner hereinbefore provided as to calls on unpaid-up stock. 53 V., c. 32, s. 8. Amount.

17. Failure on the part of any shareholder liable to such call to pay the same when due shall operate as a forfeiture by such shareholder of all claim in or to any part of the assets of the bank; but such call and any further call on the unpaid stock of such shareholder made thereafter shall nevertheless be recoverable from him as if no such forfeiture had been incurred. 53 V., c. 32, s. 8. Effect of failure to pay.

18. Persons who have been shareholders of any stock shall, in case of the failure of the bank to meet the claims of its creditors on demand, be liable to calls on all stock transferred by them Liability after transfer in certain cases.

them within two months of the commencement of such failure, to the same extent as if such stock had not been transferred by them, saving their recourse for the amount of such calls against the transferees of such stock. 53 V., c. 32, s. 9.

DIVIDENDS.

- Dividends.** **19.** The directors of the bank shall make half-yearly dividends of so much of the profits of the bank as to the majority of them seems advisable, and as is not inconsistent with the provisions of this Act; and they shall give public notice for at least thirty days, in the manner in this Act provided for notices of meetings, of the time and place where such dividends will be paid. 53 V., c. 32, s. 10.
- Notice.**

TRANSFER OF SHARES AND DEPOSITS.

- Transfer of shares.** **20.** The shares in the bank shall be transferable in the manner provided by the by-laws and regulations made as prescribed by the charter; and the transferee shall have the rights and shall be subject to the liabilities of the original holder. 53 V., c. 32, s. 11.

- Joint holders of shares.** **21.** No share shall be divided, and if any share is held by several persons jointly, one of them shall be appointed by letter of attorney by the others to vote thereon, to receive dividends and to do all things that require to be done in respect thereof; and such letter of attorney shall be lodged with the bank. 53 V., c. 32, s. 11.

- Transmission of deposits or shares otherwise than by transfer.** **22.** If the interest in any deposit or share in the bank becomes transmitted in consequence of the death or insolvency of any depositor or shareholder, or in consequence of the marriage of a female depositor or shareholder, or by any other lawful means than by a transfer upon the books of the bank, or by deed served upon the bank, such transmission shall be authenticated by a declaration in writing, which shall distinctly state the manner in which and the person to whom such deposit or share has been transmitted, and shall be, by such person, made and signed.
- Declaration.**

- How sworn.** 2. Every such declaration shall be, by the person making and signing the same, sworn to before a judge or justice of a court of record or chief magistrate of a city, town, borough or other place, or before a notary public, and left with the manager, agent or other officer of the bank who shall, if corroborative evidence of any facts alleged in such declaration is not required as hereinafter authorized, thereupon enter the name of the person, so shown to be entitled to such deposit or share under such transmission as proprietor thereof in the books of the bank.
- Entry.**

3. Until such transmission is so authenticated, no person claiming by virtue of any such transmission shall be entitled to receive such deposit or share, or any part thereof, or any interest or dividend thereon. 53 V., c. 32, s. 12.

23. Every declaration and instrument required to perfect the transmission of a deposit or share in the bank, made in any other country than Canada or some other of the British colonies or the United Kingdom of Great Britain and Ireland, shall be further authenticated by the British consul or vice-consul, or other accredited representative of the British Government in the country where the declaration is made, or shall be made directly before such British consul or vice-consul, or other accredited representative. 53 V., c. 32, s. 12. Authentication in foreign country.

24. Nothing in this Act contained shall prevent the directors, manager or other officer or agent of the bank from requiring corroborative evidence of any facts alleged in any such declaration. 53 V., c. 32, s. 12. Further evidence may be required.

25. If payment is made to any depositor of any deposit or of any interest thereon, or of any dividend on any share, after transmission thereof by any of the means mentioned in this Act, but before such declaration is made and authenticated as aforesaid and left with the manager, agent or other officer of the bank, such payment shall be valid and shall discharge the bank. 53 V., c. 32, s. 12. Corroborative evidence.

26. If the transmission of any deposit or share is by virtue of the marriage of a female depositor or shareholder, the declaration shall be accompanied by a copy of the register of such marriage, and shall declare the identity of the wife with the holder of such deposit or share; and if the transmission has taken place by virtue of any testamentary instrument or by intestacy, or by the vacancy of the estate of a deceased depositor or shareholder, the probate of the will, or, if it is notarial, an authentic copy thereof, or the letters of administration, or act of tutorship or curatorship, or authentic certificates of birth, as the case may be, shall, together with such declaration, be produced and left with the manager, agent or other officer of the bank, who shall thereupon enter the name of the person entitled under such transmission in the books of the bank. 53 V., c. 32, s. 13. Transmission by marriage. By testament, intestacy or vacancy of estate.

DEPOSITS AND LOANS.

27. The bank may receive deposits of money for the benefit of persons depositing the same, and may invest the same as hereinafter provided, and may accumulate the revenues and profits derived from the investment of so much thereof as is not required to meet ordinary demands by the depositors, and out of such accumulation may allow and pay to the depositors thereof such rate of interest on such deposits as is from time to time

fixed by the Governor in Council, not being more than five per centum per annum. 53 V., c. 32, s. 14.

Depositor to
give name
and address.

28. Every depositor, on making his first deposit in the bank, shall disclose and declare his name, residence, addition and occupation. 53 V., c. 32, s. 15.

Deposits by
persons
under dis-
ability.

29. The bank may receive deposits from any person whatever, and whether such person is qualified by law to enter into ordinary contracts or not; and the bank may pay the principal or any part thereof, and the whole or any part of the interest thereon, to such person, without the authority, aid, assistance or intervention of any person or official being required: Provided that, if the person making any deposit in the bank is not, by the laws of the province of Quebec, authorized so to do, the total amount of deposits made by such person shall not exceed the sum of two thousand dollars. 53 V., c. 32, s. 16.

Limitation.

Payments in
good faith.

30. Any payment of interest or dividend, or of the whole or any part of any deposit, made in good faith to any person who appears *prima facie* to be entitled to such interest, dividend or deposit, by the production of a declaration in writing, and of the documents in this Act required in support thereof shall be valid; and the discharge of such person shall be a sufficient discharge of the bank from all or any further claim by any person whatever for such interest, dividend or deposit. 53 V., c. 32, s. 17.

Discharge.

Investments.

31. The bank shall always hold at least twenty per centum of the moneys deposited with it,—

Securities.

(a) in public securities of the Dominion of Canada, or of any of the provinces thereof, or of the United Kingdom, or of any British colony or possession, or of the United States, or of any state thereof; or,

Deposits.

(b) in deposits in chartered banks in Canada; or,

Bonds.

(c) in Canadian municipal bonds or securities; or,

Debentures.

(d) in school bonds or debentures issued in the province of Quebec, if they are secured by the school municipality in which the schools are situate; or,

Approved
securities.

(e) in any other security approved by the Treasury Board. 63-64 V., c. 28, s. 2.

Investment
of deposits.

32. The bank may, subject to the requirements of this Act, invest any moneys deposited with it,—

Securities.

(a) in any of the securities mentioned in the next preceding section; or,

Bonds.

(b) in the purchase of bonds or debentures of any building society, loan or investment company, water-works company, gas company, street railway company, electric light or power company, electric railway or street railway company, telegraph or telephone company, water-power com-

pany, navigation company, or heat and light company :
 Provided such society or company is incorporated in
 Canada and has a paid-up capital of at least five hundred
 thousand dollars; or,

- (c) in the purchase of the bonds or debentures of any tele- Debentures.
 graph cable company having a paid-up capital of at least
 five hundred thousand dollars. 63-64 V., c. 28, s. 2.

33. The bank may continue to hold any stock of any exist- Stocks of
 ing chartered bank held by it before it received its charter, and banks.
 may sell and dispose of such stock. 63-64 V., c. 28, s. 2.

34. The bank may lend any of such moneys upon the per- Loans with
 sonal security of individuals or to corporate bodies, if, collateral
 in addition to such personal or corporate security, collateral security.
 securities of the nature aforesaid, or foreign public securities,
 or stock of some chartered bank in Canada, or bonds or
 debentures or stock of an incorporated institution or company,
 the market value whereof is not less than the amount lent, are
 taken, with authority to sell such securities if the loan is not
 paid. 63-64 V., c. 28, s. 2.

35. The bank may lend any of such moneys without col- Loans
 lateral security,— without
 collateral security.

- (a) to the Government of Canada, or to the government of
 any province of Canada;
 (b) to the corporation of any municipality in Canada with
 a population of at least two thousand inhabitants;
 (c) to any *fabrique de paroisse*, or to *syndics pour l'érection*
d'églises, specially authorized by Act of the Legislature
 of Quebec to issue bonds binding on the taxable property
 of the parish; or,
 (d) upon a resolution of their respective boards of directors,
 to incorporated companies, or incorporated institutions,
 within the limits of their borrowing powers, and not
 exceeding in any case their paid-up capital, if such
 company or institution has a paid-up capital of not less
 than five hundred thousand dollars, and has paid continu-
 ously for the previous five years a dividend at the rate of
 at least five per centum per annum. 63-64 V., c. 28, s. 2.

36. The bank shall not make any loan, directly or indi- Loans not
 rectly, upon the security of real or immovable property, or to be made
 with any reference to the security of real or immovable prop- on real
 erty; but nothing herein contained shall prevent the bank estate.
 from taking security upon real or immovable property subse-
 quently to the making of the loan and in addition to the secur-
 ity originally taken therefor and as collateral thereto. 53 V.,
 c. 32, s. 21.

Enforcement
of payment
by sale of
collateral
security.

37. In the event of the non-payment of any loan within thirty days after such loan becomes due and payable, or within such shorter time thereafter as shall have been fixed by any agreement made in that behalf between the bank and the borrower at the time such loan is contracted, the bank may sell in manner herein provided any collateral securities, other than real estate, held by it as security for such loan, or so much as will suffice to pay the amount of such loan and all interest thereon and the costs and expenses of sale, and shall return the surplus, if any, to the borrower, or person or corporation depositing such securities. 53 V., c. 32, s. 22.

Surplus.

Sale to be
by auction.

38. Except as hereinafter provided, no such sale shall be made except by public auction, after notice thereof by advertisement stating the time and place of such sale, in at least two newspapers published in or nearest to the place where the sale is to be made, of which newspapers one at least shall be published in the English language and one other in the French language; and in addition to such notice by advertisement, notice of the time and place of such sale shall be given to the person or corporation depositing such collateral security, by addressing and mailing to the last address of such person, or to the address of such corporation, a letter containing such notice. 53 V., c. 32, s. 22.

Notice by
advertisement
and
letter.

Other re-
course not
affected.

39. Nothing herein contained shall prevent the bank from collecting or realizing such loan, or any balance due thereon, out of such collateral securities, in any way which has been agreed upon with the person depositing the same. 53 V., c. 32, s. 22.

Transfer to
be without
warranty.

40. The president or vice-president, manager, cashier or other officer of the bank, thereunto authorized by the directors, may transfer and convey any security so sold to the purchaser, and by such transfer and conveyance the property in such security shall become vested in such purchaser, but without any warranty from the bank, or any officer thereof.

Bank the
purchaser.

2. The bank at any such sale may become the purchaser of any of the securities held by it. 53 V., c. 32, s. 22.

Purchase of
real estate
brought to
sale by bank.

41. The bank may purchase any lands or immovable property offered for sale under execution at the suit of the bank, or exposed for sale by the bank under a power of sale given to it in that behalf in all cases in which, under similar circumstances, an individual could so purchase, without any restriction as to the value of the property which it may so purchase, and shall acquire such title thereto, as any individual purchasing at sheriff's sale or under a power of sale, in like circumstances, could do, and may take, have, hold and dispose of any such lands or property at pleasure. 53 V., c. 32, s. 23.

42. The bank may acquire and hold an absolute title in or to land mortgaged to it as security for a debt due or owing to it, either by obtaining a release of the equity of redemption in the mortgaged property, or by procuring a foreclosure, or by other means whereby, as between individuals, an equity of redemption can, by law, be barred, or may purchase and acquire any prior mortgage or charge on such land: Provided that the bank shall not hold any real or immovable property, howsoever acquired, except such as is required for its own use for any period exceeding seven years from the date of the acquisition thereof. 53 V., c. 32, s. 24.

Absolute title.

For seven years.

43. Nothing in any charter, Act or law shall be construed as having prevented or as preventing the bank from acquiring and holding an absolute title to and in any such mortgaged lands, whatever the value thereof may be, or from exercising or acting upon any power of sale contained in any mortgage given to it or held by it, authorizing or enabling it to sell or convey away any lands so mortgaged. 53 V., c. 32, s. 25.

Right to absolute title and power of sale.

44. Nothing herein contained shall prevent the bank from depositing money in any of the chartered banks carrying on the general business of banking within the province of Quebec. 53 V., c. 32, s. 26.

Deposits in chartered banks.

GENERAL.

45. The directors of the bank shall continue to distribute to charitable institutions yearly, as heretofore, the interest accruing on the amounts invested for that purpose. 53 V., c. 32, s. 27.

Distribution to charitable institutions.

46. The principal of the Poor Fund of the City and District Savings Bank of Montreal, which has been ascertained and settled at one hundred and eighty thousand dollars, shall continue invested and shall be held by the said bank in the city and municipal debentures in which the same is now invested and held, with power to change the investment of the same or of any part thereof, from time to time, with the approval and permission of the Treasury Board, but not otherwise. 53 V., c. 32, s. 27.

Poor fund of Montreal.

47. The principal of the Charity Fund of *La Caisse d'Economie de Notre-Dame de Québec*, which has been ascertained and settled at eighty-three thousand dollars, shall continue invested and shall be held by the said bank, in debentures of the city of Quebec, with power to change the investment of the same or of any part thereof, from time to time, with the approval and permission of the Treasury Board, but not otherwise. 53 V., c. 32, s. 27.

Charity fund of Quebec.

Guarantee
and pension
funds.

48. The shareholders may authorize the directors to establish guarantee and pension funds for the officers and employees of the bank and their families, and to contribute thereto out of the funds of the bank. 53 V., c. 32, s. 28.

Bank not to
issue notes.

49. The bank shall not issue any bank note, or note intended to circulate as money or as a substitute for money, or be deemed a bank within the meaning of the Bank Act. 53 V., c. 32, s. 29.

Bank not
bound by
trusts.

50. The bank shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any deposit or share therein is subject.

2. The receipt of the person in whose name any such deposit or share stands in the books of the bank, or, if it stands in the names of more persons than one, the receipt of one of the persons, shall be a sufficient discharge to the bank for such deposit or share, interest or dividend thereon, or for any other sum of money payable in respect of such deposit or share, unless express notice to the contrary has been given to the bank. 53 V., c. 32, s. 30.

Deposit
made pon
express con-
dition.

51. If such deposit is made upon express conditions as to the person or persons to whom such deposit shall be paid, such deposit shall be governed by such conditions, notwithstanding any trust to which such deposit is then subject, and whether or not the bank has had notice of such trust; and the bank shall not be bound to see to the application of the money paid on any receipt whether given by one of a number of persons in whose name any deposit or share stands or by all of them. 53 V., c. 32, s. 30.

Application
of money
paid.

RETURNS.

Monthly
returns to
Minister.

52. Monthly returns shall be made, by the bank, to the Minister, and shall be made up within the first ten days of each month, and shall exhibit the condition of the bank on the last juridical day of the month next preceding; and such monthly returns shall be signed by the president or vice-president, or the director then acting as president, and by the manager, cashier or other principal officer of the bank at its chief place of business, and shall be published in the *Canada Gazette*.

Publication.

2. Such monthly returns shall be in the form set forth in the schedule to this Act. 53 V., c. 32, s. 31.

Annual list
of share-
holders for
Parliament.

53. The bank shall furnish, annually, to the Minister, to be laid before Parliament, certified lists of the shareholders, with their additions and residences, and the number of shares they respectively hold and the amounts paid up thereon. 53 V., c. 32, s. 32.

Return of
unpaid
dividends.

54. The bank shall, within twenty days after the close of each calendar year, transmit or deliver to the Minister, to be laid

laid by him before Parliament, a return of all dividends which have remained unpaid for more than five years, and also of all amounts or balances in respect to which no transactions have taken place, or upon which no interest has been paid during the five years prior to the date of such return. Balances unclaimed for five years.

2. In case of moneys deposited for a fixed period, the period of five years in this section referred to shall be reckoned from the date of the termination of such fixed period. 53 V., c. 32, s. 33. Five years period.

55. Such return shall be signed in the manner required for the monthly returns under this Act, and shall set forth the name of each shareholder or creditor, his last known address, the amount due, the agency of the bank at which the last transaction took place, and the date thereof; and if such shareholder or creditor is known to the bank to be dead, such return shall show the names and addresses of his legal representatives, so far as known to the bank. 53 V., c. 32, s. 33. Contents of return.

WINDING-UP.

56. Upon the winding-up of the bank in insolvency or under any general winding-up Act or otherwise, and before the final distribution of the assets, or within three years from the commencement of the suspension of payment by the bank or the commencement of the winding-up thereof, whichever shall first happen, the assignees, liquidators, directors or other officials in charge of such winding-up shall, notwithstanding any statute of limitation, or other enactment or law relating to prescription, pay to the Minister out of the assets of the bank any moneys payable either to shareholders or depositors, which may then remain unclaimed. In case of insolvency unclaimed moneys to be paid to Minister.

2. Upon such payment being made, the bank and its assets shall be relieved from all further liability in respect to the amount so paid. 53 V., c. 32, s. 33. Liability of bank ceases.

57. All moneys paid the Minister as aforesaid shall be held by him, subject to all rightful claims on behalf of any person other than the bank, and in case a claim to any moneys so paid as aforesaid should be thereafter established to the satisfaction of the Treasury Board, the Governor in Council shall, on the report of the Treasury Board, direct payment thereof to be made to the parties entitled thereto, together with interest on the principal sum thereof at the rate of three per centum per annum for a period not exceeding six years from the date of payment thereof to the Minister as aforesaid: Provided that no such interest shall be paid or payable on such principal sum, unless interest thereon was payable by the bank paying the same to the Minister. 53 V., c. 32, s. 33. Disposal of moneys so paid. Claims. Proviso as to interest.

58. Every liquidator or other officer or person appointed to wind up the affairs of the bank in case of its insolvency, Powers of liquidator.

shall have all the powers in this Act given to directors with respect to calls. 53 V., c. 32, s. 8.

OFFENCES AND PENALTIES.

Changing
effect of
books and
theft.

59. Every officer, clerk, or servant, who is employed under the provisions of this Act, and who defaces, alters, erases, or in any manner or way whatsoever, changes the effect of the books of account kept under the provisions of this Act, or any entry in the said books of account, for any fraudulent purpose, and every such officer, clerk or servant, who secretes, appropriates or steals any bond, obligation, bill or note, or any security for money, or any money or effects entrusted to him, or in his custody, or to which he has obtained access as such agent, officer, clerk or servant, to whomsoever the said property belongs, is guilty of an indictable offence, and, on conviction thereof, shall be liable to imprisonment for life: Provided that nothing herein contained, nor the conviction or punishment of the offender, shall prevent, lessen or impair any remedy which His Majesty, or the Minister or any other person, would otherwise have against any other person whatsoever. 53 V., c. 32, s. 34.

Penalty.

Proviso.

Falsely pre-
tending to
own deposits.

60. Every person who, with intent to defraud, falsely pretends to be the owner of any deposit made under this Act, or of the interest upon such deposit, and who is not such owner, and who demands or claims from the bank with which such deposit has been made, or from any person employed under this Act, the payment of such deposit or interest, or of any portion thereof, as the case may be, and whether he does or does not thereby obtain any part of such deposit or interest, is guilty of an indictable offence and shall be punished accordingly. 53 V., c. 32, s. 35.

Penalty.

False state-
ments in
documents.

61. The making of any wilfully false or deceptive statement in any account, return, report or other document respecting the affairs of the bank is an indictable offence punishable by imprisonment for a term not exceeding five years, and every president, vice-president, director, auditor, manager, cashier or other officer of the bank, who prepares, signs, approves or concurs in any such account, statement, return, report or document containing such false or deceptive statement, or uses the same with intent to deceive or mislead any person, shall be held to have wilfully made such false statement, and shall further be responsible for all damages sustained by such person in consequence thereof: Provided that nothing in this section shall have the effect of restricting the penalty for any act done, punishable under the Criminal Code. 53 V., c. 32, s. 36.

Neglect of
bank to
furnish
returns.

62. If the bank neglects to transmit or deliver to the Minister the returns required by this Act to be so transmitted or delivered within the time in this Act limited therefor, it shall

incur a penalty of fifty dollars for each and every day during which such neglect continues. 53 V., c. 32, s. 33.

63. If the bank shall hold any real or immovable property howsoever acquired, except such as is required for its own use, for any period exceeding seven years from the date of the acquisition thereof, it shall incur a penalty not exceeding five hundred dollars, which shall be recoverable with costs in any court of competent jurisdiction by any person who sues for the same, and one-half of such penalty shall be paid to the Minister for the public uses of Canada and the other half thereof to the person suing for the same. 53 V., c. 32, s. 24.

Holding real property beyond seven years.
Penalty.

64. Every director who refuses to make or enforce or to concur in making or enforcing any call provided for by this Act to be made in case of an insufficiency in the funds of the bank to satisfy its debts and liabilities, is guilty of an indictable offence and shall be personally responsible for any damages suffered by reason of such refusal. 53 V., c. 32, s. 8.

Failure of director to make call.
Penalty.

SCHEDULE.

RETURN of the amount of liabilities and assets of the (name of the bank) on the day of

CAPITAL STOCK, \$

CAPITAL PAID UP, \$

LIABILITIES.

	\$	cts.
1. Dominion Government deposits, payable on demand.		
2. Provincial Government deposits, payable on demand.		
3. Other deposits, payable on demand.		
4. Dominion Government deposits, payable after notice or on a fixed day.		
5. Provincial Government deposits, payable after notice or on a fixed day.		
6. Other deposits, payable after notice or on a fixed day.		
7. Special Poor Fund or Charity Fund Trust.		
8. Liabilities not included under the foregoing heads.		

27½

419

ASSETS.

ASSETS.

	\$	cts.
1. Dominion, provincial and other public securities		
2. Cash in hand and on deposit in chartered banks		
3. Canadian municipal bonds or securities, school bonds or debentures, and securities approved by Treasury Board		
4. Other bonds, debentures and securities		
5. Loans to governments, municipal corporations, <i>fabriques de paroisses, syndics pour l'érection d'églises</i> and corporations on resolutions of their boards of directors		
6. Loans for which bank stocks are held as collateral security		
7. Loans for which stocks, bonds, debentures or securities, other than bank stocks, are held as collateral security		
8. Special Poor Fund or Charity Fund investments		
9. Investment in bank stock made previous to the incorporation of the bank		
10. Bank premises		
11. Other assets, not included under the foregoing heads		

I declare that the above return has been prepared under my directions and is correct according to the books of the bank.

E. F.,
Accountant, (or Inspector).

We declare that the foregoing return is made up from the books of the bank, and that it is correct, to the best of our knowledge and belief, and shows truly and clearly the financial position of the bank.

(Place) this day of

A. B., *President.*
C. D., *Cashier.*

63-64 V., c. 28, s. 5, and schedule.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.



CHAPTER 33.

An Act respecting returns by certain persons and corporations receiving moneys on deposit at interest.

1. This Act may be cited as the Savings Deposits Returns Act. Short title.

2. Every person, corporation or institution, except chartered banks, receiving money in small sums, on deposit at interest as savings, shall make such returns as to such deposits, and the investment thereof, as the Governor in Council, from time to time, requires; and shall register with the Minister of Finance and notify in such manner as the Governor in Council by order directs, the name of such person, corporation or institution, and that of the officer or person on whom process may be served in any suit or proceeding. Every person receiving deposits of savings to make returns. R.S., c. 126, s. 1.

3. Every wilful refusal or neglect to obey any order in council made under this Act is an indictable offence. Penalty in default. R.S., c. 126, s. 1.

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ANNOTATIONS.

CHAPTER 29.

Banks and Banking.

INTERPRETATION.

Section 2 (f).—Debts are not included in expression “goods, wares, and merchandise”: Per *Armour, C.J.*, in *Rennie v. Quebec Bank* (1902) 3 Ont. L. R. 541.

Section 2 (g).—The goods should be described with reasonable certainty in warehouse receipt: *Llado v. Morgan* (1874), 23 U. C. C. P. 517; *Bank of Hamilton v. Noye Manufacturing Co.* (1885) 9 Ont. R. 638.

APPLICATION OF ACT.

Section 3.—As to constitutionality of this legislation, see *Tennant v. Union Bank of Canada* (1894), A. C. at p. 46. Act does not apply to foreign banking corporations: Per *Rose, J.*, in *Commercial National Bank of Chicago v. Corcoran* (1884) 6 Ont. R. at p. 531.

INCORPORATION AND ORGANIZATION.

Section 12.—Provisional directors should allot stock to subscribers, and give them notice thereof: *Nasmith v. Manning* (1881) 5 S. C. R. 417.

INTERNAL REGULATIONS.

Section 18.—By-laws and deeds should have corporate seal affixed: *Bank of Upper Canada v. Widmer* (1832) 2 U. C. O. S. 222B; *Bank of Commerce v. Jenkins* (1888) 16 Ont. R. 215.

Section 18 (c).—Quorum validating resolution: *Bank of Liverpool v. Bigelow* (1878) 12 N. S. R. 236.

Section 19.—Directors can do whatever the whole of the stockholders can do: Per *Robinson, C.J.*, in *Bank of Upper Canada v. Widmer* (1832) 2 U. C. O. S. at p. 241B.

But their acts must be regular, and done on behalf of the corporation: *O'Dell v. Boston and Nova Scotia Coal Co. Ltd.* (1897) 29 N. S. R. 385.

Directors and managers are quasi-trustees for general body of shareholders: *Drake v. Bank of Toronto* (1862) 9 Gr. 116.

As to personal interests of director conflicting with company's interests, see per *Baggallay, L.J.*, in *North-West Transportation Company v. Beatty* (1887) L. R. 12 A. C. at p. 593.

Section 22.—As to setting aside director's election, see *Toronto Brewing and Malting Co. v. Blake* (1882) 2 Ont. R. 175; *Gilmour v. Hall* (1886) M. L. R. 2 Q. B. 374; *Henry v. Simard* (1866) 16 L. C. R. 273.

Section 23.—Majority of legal votes must be polled against director to avoid election: *Gibb v. Poston* (1866) 16 L. C. R. 257.

Section 29 (a).—Quære: If verbal authority from directors to manager sufficient for sale of land? *Dominion Bank v. Knowlton* (1877) 25 Grant 125.

Section 30.—Authority of officers: *Merchants Bank of Halifax v. Whidden* (1891) 19 S. C. R. 53; *Grieve v. Molsons Bank* (1885) 8 Ont. R. 162.

Section 30, s.-s. 4.—Employees' Bonds: *Bank of Upper Canada v. Covert* (1836) 5 U. C. O. S. 541; *Bank of Toronto v. Wilmot* (1859) 19 U. C. Q. B. 73; *Royal Canadian Bank v. Yates* (1869) 19 U. C. C. P. 439; *Springer v. Exchange Bank* (1887) 14 S. C. R. 716; *City Bank v. Brown* (1852) 2 L. C. R. 246; *Bank of Toronto v. European Assurance Society* (1870) 14 L. C. J. 186; s. c. in P. C. (1875) 7 R. L. 57; *Citizens Ins. Co. v. Grand Trunk Ry. Co.* (1880) 3 L. N. 312; *Banque Nationale v. Lesperance* (1881) 4 L. N. 147.

Section 32.—Shareholder not disqualified by pecuniary interest in question: Per *Baggallay, L.J.*, in *North-Western Transportation Co. v. Beatty* (1887) L. R. 12 A. C. at p. 593.

Section 32, s.-s. 7.—"Manager" probably does not mean managing director: See *Reg. v. Bank of Upper Canada* (1848) 5 U. C. Q. B. 338.

Section 32, s.-s. 9.—Partly paid up shares have equal voting status with those fully paid up, provided there has been no default after call: *Purdom v. Ontario Loan and Debenture Co.* (1892) 22 Ont. R. 597.

CAPITAL STOCK.

Section 34.—Directors may fix rate of stock to public, but cannot offer it below par: See per *Ritchie and Strong, JJ.*, in *McCracken v. McIntyre* (1877) 1 S. C. R. at pp. 509, 527.

SHARES AND CALLS.

SHARES.

Section 36.—Shares are (choses in action) personal property in the county in which the head office may be: *In re Bank of Ontario* (1879) 44 U. C. Q. B. at p. 251.

Section 36, s.-s. 3.—See above case.

Section 37.—As to effect of acceptance of shares: see *Central Bank of Canada, Baines' Case* (1889) 16 Ont. A. R. 237; *Central Bank of Canada, Nasmith's Case* (1891) 18 Ont. A. R. 209.

Note: There is no provision for interest on overdue share calls. Cf. the following cases upon cognate statutes: *St. John Bridge Co. v. Woodward* (1840) 3 N. B. R. 29; *Hughes v. La Compagnie des Villas du Cap Gibraltar* (1889) M. L. R. 5 S. C. 129.

CALLS.

Section 38.—Quorum of directors necessary to make valid calls: *Ontario Insurance Co. v. Ireland* (1855) 5 U. C. C. P. 139; *Bank of Liverpool v. Bigelow* (1878) 12 N. S. R. 236.

Except in case of insolvency (see s. 128, s.-s. 4), a by-law or resolution is required for each call. Thirty clear days must elapse between actual dates of making: *Robertson v. Banque d'Hochelaga* (1881) 4 L. N. 314; *Exchange Bank v. Darling* (1884) 16 R. L. 649; *Exchange Bank v. Chaplin* (1885) 17 R. L. 246; *Bank of Nova Scotia v. Forbes* (1883) 16 N. S. R. 295; *Saint John Bridge Co. v. Woodward* (1840) 3 N. B. R. 29.

Section 40.—Forfeiture cannot be made without notice, putting the owner in default: *Robertson v. Banque d'Hochelaga* (1881) 4 L. N. 314.

Act must be strictly complied with. Courts will not favour forfeiture: *Ibid.*

TRANSFER AND TRANSMISSION OF SHARES.

Section 43 (a).—Transfer. As to valid acceptance, see *Walsh v. Union Bank* (1879) 5 Q. L. R. 289; *Re Central Bank and Hogg* (1890) 19 Ont. R. 7.

Defective Registration: see *Smith v. Walkerville Iron Co.* (1896), 23 Ont. A. R. 95; *Re Central Bank, Home Savings and Loan Co.'s Case* (1891) 18 Ont. A. R. 489.

Section 43 (b).—Lien on stock for partnership debt: *In re Chinic* (1888) 14 Q. L. R. 289.

Section 45.—One who subscribes in his own name for shares for another person is jointly and severally liable with that other therefor: *Molsons Bank v. Stoddart* (1890) M. L. R. 6 S. C. 18.

Duty of the transferee to enquire if transfer is authorized: *Bank of Montreal v. Sweeney* (1887) 12 A. C. 617. Improper refusal by bank to transfer: *Smith v. Bank of Nova Scotia* (1882) 8 S. C. R. 558.

Effect of winding-up order on irregular transfer: *In re Central Bank of Canada; Home Savings and Loan Co.'s Case* (1891) 18 Ont. A. R. 489.

Purchase of share to qualify to sue bank: *Jones v. Imperial Bank* (1876) 23 Gr. 262.

Irregular transfer—transferee estopped from raising irregularity: *Bank of Liverpool v. Bigelow* (1878) 12 N. S. R. 236.

Section 46.—Head office of Bank in Toronto. Sale of share under execution in Montreal: *In re Bank of Ontario* (1879) 44 U. C. Q. B. 247.

Shares cannot be seized by means of *saisie arrêt* in Quebec, but must be seized conformably to Art. 566 (now Art. 642) C. C. P. by writ of execution: *Hudon v. Banque du Peuple* (1875) 7 R. L. 229.

Section 47 (a).—Transmission. Bank may refuse to register transfer to executors, in case of transmission by death, until proof is given that duty is paid: *Heneker v. Bank of Montreal* (1895) Q. R. 7 S. C. 257.

Section 50.—See *Ibid.*

Section 52.—The holder of shares "in trust" is not a *mandataire prête-nom*. A transferee from such holder is bound to know whether transfer is authorized by the trust: *Bank of Montreal v. Sweeney* (1887) A. C. 617.

Bank's knowledge of trusts being defeated by transfer: *Simpson v. Molson's Bank* (1895) A. C. 270.

Loan company as trustee: *In re Central Bank of Canada, Home Savings and Loan Company's Case* (1891), 18 Ont. A. R. 489.

Section 53.—Purchase of shares by curator to substitution. Proceedings to invalidate: *Petry v. Caisse d'Economie de Notre Dame de Quebec* (1891) 19 S. C. R. 713.

ANNUAL STATEMENT AND INSPECTION.

Sections 54 and 55.—See cases cited under s. 153, *infra*.

Section 56.—The fact that directors fail to inspect books, when by so doing they would have discovered embezzlement by an officer of bank is no defence in an action by bank against his sureties: *Springer v. Exchange Bank* (1886) 13 Ont. A. R. 390; (1887) 14 S. C. R. 716.

A stockholder, merely as such, has no right to inspect the stock or other books of the bank. The Court will require some special ground to be disclosed before granting him a mandamus therefor: *In re Bank of Upper Canada v. Baldwin* (1829) Dra. 55.

A local manager is bound to produce under a subpoena d.t., the books of his office, even when bank is not a party to the suit: *Hannum v. McRae* (1898) 18 Ont. P. R. 185.

A bank cannot refuse to disclose its transactions with one of its customers, when the propriety of those transactions is in question in a court of law between the bank and another customer who attacks them, and shews good cause for requiring the information he seeks: *Re Chatham Banner Co., Bank of Montreal's Claim* (1901) 2 Ont. L. R. 672.

CASH RESERVES.

Section 60.—Provincial legislature may enact a law imposing a tax on Dominion notes held by a bank as portion of its cash reserve: *Windsor v. Commercial Bank* (1882) 15 N. S. R. 420.

BUSINESS AND POWERS OF A BANK.

Section 76 (a).—For payment of cheques, a branch bank is distinct from head office or other branches; the customer can only present cheques at the branch where account is kept. . . . Again, as to notice of dishonour or protest each branch indorsing has a day to send notice to next preceding indorser: *Irwin v. Bank of Montreal* (1876) 38 U. C. Q. B. 375; *Steinhoff v. Merchants Bank*

(1881) 46 U. C. Q. B. 25; *The Queen v. Bank of Montreal* (1886) 1 Ex. C. R. 154. But where a bank has its head office in another province, but a branch in Ontario, the bank was deemed to be resident in Ontario: *Wentworth v. Smith* (1893) 15 Ont. P. R. 372. Bank is bound to know correct amounts of drafts by branches: *Union Bank v. Ontario Bank* (1879) 9 R. L. 631.

Section 76 (c) and (d).—"Dealing" in negotiable securities includes purchasing as well as lending money upon them: per Proudfoot, V.C., in *Jones v. Imperial Bank* (1876) 23 Gr. at p. 273.

A letter from a member of a provincial government promising to pay a sum when voted by the legislature is not a "negotiable security" within the meaning of this section: *Jacques Cartier Bank v. The Queen* (1895) 25 S. C. R. 84.

A bank may take a bill of sale of horses as collateral security for an existing debt: *Bank of Hamilton v. Donaldson* (1901) 13 Man. R. 378.

As to distinction between "negotiable instrument" and a "chose in action" as applied to "deposit receipts": see *In re Commercial Bank of Manitoba, Barkwell's Claim* (1897) 11 Man. R. 494.

Discounting notes is not business exclusively appertaining to banking: *La Société Permanent district d'Iberville v. Rossiter* (1881) 4 L. N. 269.

Payments by bank. When property in money paid over by teller passes to payee: see *Hall v. Hatch* (1902) 3 Ont. L. R. 147.

A banker does not owe to the holder of a cheque the duty of knowing his customers' signature: *Rex v. Bank of Montreal* (1905) 10 Ont. L. R. 117.

A credit entry may be cancelled in books of bank where a cheque was merely handed in for collection, and the bank had no intention of discounting it: *The Queen v. Bank of Montreal* (1886) 1 Ex. C. R. 154.

Sale of railway bonds held as collateral—Trust: *Nova Scotia Central Ry. Co. v. Halifax Banking Co.* (1892) 21 S. C. R. 536.

Return of collateral securities after payment of debt: *Union Bank v. Elliott* (1902) 14 Man. R. 187.

Pledge of railway bonds—Obligation to sell by auction: *Toronto General Trusts Co. v. Central Ontario Ry. Co.* (1905) 10 Ont. L. R. 347.

Lien of bank on customer's money: *In re Williams* (1903) 7 Ont. L. R. 156.

Section 76, s.-s. 2.—The assignment to a bank of a mortgage upon land to secure indorsement is not a violation of this section: *Re Essex Land and Timber Company, Trout's Case* (1891) 21 Ont. R. 367.

The prohibition against advances upon security of shares of another bank applies to the bank, and not to the borrower: *Exchange Bank v. Fletcher* (1891) 19 S. C. R. 278.

As to negotiable nature of "municipal debentures": see *Crawford v. Cobourg* (1861) 21 U. C. Q. B. 113; *Sceally v. McCallum* (1862) 9 Gr. 434; *Parish of St. Césaire v. McFarlane* (1887) 14 S. C. R. 738.

Bonds and debentures of other corporations: *Bank of Toronto v. Cobourg P. & M. Ry. Co.* (1884) 7 Ont. R. 1; *Desrosiers v. Montreal P. & B. Ry. Co.* (1883) 6 L. N. 388.

It is not a violation of this section for a bank to guarantee payment to vendors in England of price of merchandise sold to customer in Montreal: *Molsons Bank v. Kennedy* (1879) 10 R. L. 110. But see *Johansen v. Chaplin* (1889) M. L. R. 6 Q. B. 111; *Watts v. Wells* (1890) M. L. R. 7 Q. B. 387.

Assignment of claim for price of goods at time of discount of unaccepted draft therefor: *Merchants Bank v. Darveau* (1898) Q. R. 15 S. C. 325. And see *Molsons Bank v. Carscaden* (1892) 8 Man. R. 451.

Goods acquired by means not recognized by Act: *Radford v. Merchants Bank* (1883) 3 Ont. R. 529.

Capital stock bought by directors with bank's money for unfair purpose—Personal liability: *McDonald v. Rankin* (1890) M. L. R. 7 S. C. 44.

What the legislature prohibits in this section is a loan distinctly made upon the security of the mortgage. Where a hypothec on certain real estate in Montreal was transferred by notarial deed to a bank to secure a contemporaneous loan, it was held to be void as infringing the Act: *Bank of Toronto v. Perkins* (1882) 8 S. C. R. 603. *Commercial Bank v. Bank of Upper Canada* (1859) 7 Gr. at p. 430, is in apparent conflict with foregoing case. But see *Rolland v. La Caisse d'Economie* (1895) 24 S. C. R. 405; *Sarrazin v. Bank of St. Hyacinthe* (1881) 28 L. C. J. 270. See also notes to s. 80, post.

Section 77.—Persons against whom lien sought to be enforced must be a customer of the bank: *Allen v. Bank of New Brunswick* (1877) 17 N. B. R. 446.

The shares must really belong to the debtor before lien attaches: *Bank of Montreal v. Sweeney* (1887) 12 A. C. 617.

The lien attaches to shares held by a member of a firm for a debt due the bank by such firm: *In re Chinic and Union Bank* (1888) 14 Q. L. R. 289.

Section 78.—Securities pledged for a special debt cannot be held for an anterior debt: *Exchange Bank v. City and District Savings Bank* (1885) 14 R. L. 8. And see *Thompson v. Molsons Bank* (1889) 16 S. C. R. 664; *Insky v. Hochelaga Bank* (1896) Q. R. 10 S. C. 510.

Section 80.—The interest of a railway company in a contract for construction of cars may be assigned as security for previous advances: *Bank of Upper Canada v. Killaly* (1861) 21 U. C. Q. B. 9. As to mortgages to secure notes under discount and renewals, see *Cameron v. Kerr* (1878) 3 Ont. A. R. 30; *Dominion Bank v. Oliver* (1889) 17 Ont. R. 402; *Merchants Bank of Halifax v. Houston*, 31 S. C. R. 361.

A mortgage of timber limits in Quebec “for advances made and to be made,” held valid as to former, aliter as to latter: *Grant v. Banque Nationale* (1885) 9 Ont. R. 411.

A bank may sell goods under a chattel mortgage taken as additional security, without infringing this section: *Stewart v. Union Bank* (1888) 15 Ont. A. R. 749.

As to assignment of mortgages to bank by indorsers, see *Essex Land Company, Trout’s Case* (1891) 21 Ont. R. 367.

A chattel mortgage taken simultaneously with the discount of a note by a bank is void: *Bathgate v. Merchants Bank* (1888) 5 Man. R. 210. And see *Gillies v. Commercial Bank* (1885) 10 Man. R. 460.

Section 81 (b).—Holder of second mortgage has same right to purchase as a stranger, even if he is in actual possession: *Harron v. Yemen* (1883) 3 Ont. R. 126.

Section 86.—As to constitutionality of these provisions, see *Tenant v. Union Bank* (1894) A. C. 31.

The provisions of this section do not apply to a foreign corporation: *Commercial National Bank of Chicago v. Corcoran* (1884) 6 Ont. R. 527.

The following cases illustrate the principles upon which the courts proceed in determining the rights of banks holding warehouse receipts and bills of lading as collateral security:—

Bank of B. N. A. v. Clarkson (1869) 19 U. C. C. P. 182.
Royal Canadian Bank v. Miller (1870) 29 U. C. Q. B. 266.

- Royal Canadian Bank v. Carruthers (1870) 29 U. C. Q. B. 283.
Coffee v. Quebec Bank (1870) 20 U. C. C. P. 555.
Todd v. Liverpool Ins. Co. (1870) 20 U. C. C. P. 523.
McBride v. Gore Insurance Co. (1870) 30 U. C. Q. B. 451.
Wilson v. Citizens Ins. Co. (1875) 19 L. C. J. 175.
Cockburn v. Sylvester (1877) 1 Ont. A. R. 471.
Royal Canadian Bank v. Ross (1877) 40 U. C. Q. B. 466.
Milloy v. Kerr (1878) 3 Ont. A. R. 350; 8 S. C. R. 474.
Gibbs v. Dominion Bank (1879) 30 U. C. C. P. 36.
Molsons Bank v. Girdlestone (1879) 44 U. C. Q. B. 54.
Merchants Bank of Canada v. Smith (1883) 8 S. C. R. 512.
Merchants Bank of Canada v. Hancock (1884) 6 Ont. R. 285.
Dominion Bank v. Davidson (1885) 12 Ont. A. R. 90.
Bank of Hamilton v. Noye Mfg. Co. (1885) 9 Ont. R. 631.
Re Monteith, Merchants Bank v. Monteith (1886) 10 Ont. R. 529.
Thompson v. Molsons Bank (1889) 16 S. C. R. 664.
Peuchen v. Imperial Bank (1890) 20 Ont. R. 325.
Re Goodfallow, Traders Bank v. Goodfallow (1890) 19 Ont. R. 299.
Re Central Bank, Canada Shipping Co.'s Case (1891) 21 Ont. R. 515.
Tennant v. Union Bank (1892) 19 Ont. A. R. 1; (1894) A. C. 31.
La Banque d'Hochelaga v. Merchants Bank (1894) 10 Man. R. 361.
Imperial Bank v. Hull (1901) 4 Terr. L. R. 498.
Armstrong v. Buchanan (1903) 35 N. S. R. 559.

Section 88.—Wood that has been manufactured (i.e., formed into planks, boards, skirting-boards and mouldings) does not constitute a "product of the forest" as here used: Molsons Bank v. Beaudry (1901) Q. R. 11 K. B. 212.

Notwithstanding the language of s. 90, bank may take securities under s. 88 for pre-existing debts, as the general provisions of s. 80 ought not to be restricted by s. 90: Banque d'Hochelaga v. Merchants Bank (1895) 10 Man. R. 361.

See also Houston v. Merchants Bank of Halifax (1899) 7 B. C. R. 465; (1901) 31 S. C. R. 361. An assignment (made under Sched. C.) as security for a bill or note given in renewal of a past due bill or note is not valid as a security hereunder: Bank of Hamilton v. Halsted (1897) 28 S. C. 235. See also Ross v. Molsons

Bank (1881) 2 Dor. 82; Perkins v. Ross (1880) 6 Q. L. R. 65; Robertson v. Lajoie (1878) 22 L. C. J. 169.

Right to proceeds of sale in hands of person with knowledge of bank's claim: Union Bank of Halifax v. Spinney (1907) 38 S. C. R.

Section 89.—A bank took from a miller a warehouse receipt for certain "wheat and its products." It was held that when the wheat in the mill was reduced to the quantity, or less, named in the receipt, the whole belonged to the bank. Furthermore, so long as "the product" could be traced in flour or money it could be recovered by the bank: *Re Goodfallow* (1890) 19 Ont. R. 299.

Section 89, s.-s. 2—"Preference over unpaid vendor." This section, although over-riding the provisions of the Quebec Civil Code respecting the paramount right of an unpaid vendor (C. C. L. C. Art. 1994), has been declared to be constitutional: *Tennant v. Union Bank* (1894) A. C. 31.

Section 89, s.-s. 3.—Bill of lading—Sale of goods by pledgee—Absolute sale and not mere transfer of interest of bank under bill of lading: *Peuchen v. Imperial Bank* (1890) 20 Ont. R. 325.

Section 90.—"Negotiated or contracted": *Halsted v. Bank of Hamilton* (1896) 27 Ont. R. 435; (1897) 28 S. C. R. 235.

"Acquire or hold": *Re Central Bank* (1891) 21 Ont. R. 515. See also *Suter v. Merchants Bank* (1877) 24 Gr. 365.

Preference sustained on ground of previous promise or agreement: *Allan v. Clarkson* (1870) 17 Gr. 570; *McRoberts v. Steinhoff* (1886) 11 Ont. R. 369; *Clarkson v. Sterling* (1888) 15 Ont. A. R. 234; *Embury v. West* (1888) 15 Ont. A. R. 357; *Lawson v. McGeoch* (1893) 20 Ont. A. R. 464.

Substitution of warehouse receipts for securities given under s. 88: *Conn v. Smith* (1897) 28 Ont. R. 629.

Section 91.—"Interest or discount." Comparison with s. 80 of the Bank Act, 1890, will show that a bank no longer enjoys an express exemption from penalty or forfeiture for usury. And see s. 5 of R. S. C. 1906 c. 122. While a demand for a higher rate of interest than 7 per cent. may be successfully resisted, the excess of interest taken does not render the transaction void: per *Martin, J.*, in *Adams v. Bank of Montreal* (1899) 8 B. C. R. at p. 316. See also *La Banque de St. Hyacinthe v. Sarrazin* (1892) Q. R. 2 S. C. 96; *Bank of B. N. America v. Bossuyt*, 15 Man. R. 266.

Section 95.—The cases are conflicting upon the question as to whether deposit receipts are negotiable instruments (see *Mander v. Royal Canadian Bank* (1869) 20 U. C. C. P. 125; *Bank of Montreal v. Little* (1870) 17 Gr. 313; *Voyer v. Richer* (1869) 13 L. C. J. 213, (1874) L. R. 5 P. C. 461; *Lee v. Bank B. N. A.* (1879) 30 U. C. C. P. 255; *Re Central Bank* (1889) 17 Ont. R. 574.

But under sec. 22 of the Bills of Exchange Act, R. S. C. (1906) c. 119, an instrument may be negotiable without express words making it so.

A deposit receipt may be the subject of a *donatio mortis causa*: *Brown v. General Trusts Corporation* (1900) 32 Ont. R. 319.

Donation of "all movables"—Exclusion of deposit receipt: *Sabourin v. City and District Bank* (1903) 12 Q. R. K. B. 380.

Deposit after suspension of bank: *Ontario Bank v. Chaplin* (1891) 20 S. C. R. 152. See also *Exchange Bank v. Montreal Coffee House* (1886) M. L. R. 2 S. C. 141; *Re Central Bank of Canada, Wells and MacMurphy's Case* (1888) 15 Ont. R. 611; *Tempest v. Bertrand*, Q. R. 19 S. C. 365.

A condition in a bank deposit receipt that the receipt should on payment be given up, does not entitle the bank to retain the money in case the receipt is not forthcoming: *Bank of Montreal v. Little* (1870) 17 Gr. 685.

Payment after depositor's death: *Lee v. Bank of British North America* (1879) 30 U. C. C. P. 255.

Setting off debt due bank against deposit: *Ontario Bank v. Routhier* (1900) 32 Ont. R. 67.

A bank having received a deposit subject to certain notice of withdrawal, if required, cannot set up as a defence to an action for the deposit the absence of such notice, unless the refusal to pay was based on that ground: *Henderson v. Bank of Hamilton* (1894) 25 Ont. R. 641.

Bank as stakeholder of moneys deposited—Interest thereon: *Hutton v. Federal Bank* (1883) 9 Ont. P. R. 568.

Foreign domicile of depositor at time of death—Succession duty: *Attorney-General of Ontario v. Newman* (1899) 31 Ont. R. 340.

Transfer of deposit by husband to wife: *Sheratt v. Merchants Bank of Canada* (1894) 21 Ont. A. R. 473.

Section 96.—Liability of bank in respect of clients' funds deposited by solicitor: *Bailey v. Jellett* (1884) 9 Ont. A. R. 187.

Assignee of insolvent estate withdrawing estate funds and depositing to his own credit in same bank—Bank not liable to repay estate: *Clench v. Consolidated Bank of Canada* (1880) 31 U. C. C. P. 169.

INSOLVENCY.

Section 125.—A director who has drawn dividends on stock standing in his name cannot set up irregularities in the issue of this stock to escape double liability: *Court v. Waddell* (1881) 4 L. N. 78.

A loan company authorized to lend money on bank shares, and which has accepted a transfer of shares in the ordinary absolute form, cannot escape double liability on the ground that it is merely a trustee for the borrower: *Re Central Bank, Home Savings and Loan Co.'s Case* (1891) 18 Ont. A. R. 489.

Section 126.—A deposit made with a bank on the day and hour it suspends may lawfully be returned to the depositor: *Exchange Bank v. Montreal Coffee House Association* (1886) M. L. R. 2 S. C. 141.

A deposit made immediately after suspension, that fact being unknown to the depositor, may be recovered at law: *Re Central Bank, Wells and McMurchy's Case* (1888) 15 Ont. R. 611.

After a bank has suspended payment, and its insolvency is notorious, compensation of a debt due to the bank cannot be effected by a transfer to the debtor of debts due by the bank to third parties: *Sisters of Charity v. Kent* (1904) 13 Q. R. K. B. 483.

A person who deposits in a bank, after its suspension, cheques of third parties accepted by such bank, is not entitled to be paid by privilege the amount of such deposit: *Ontario Bank v. Chaplin* (1889) M. L. R. 5 Q. B. 407.

Recovery by bank of moneys paid out on depositors' cheques after suspension: see *Exchange Bank v. Hall* (1886) M. L. R. 2 Q. B. 409.

Deposit in another bank of bills of suspended bank—Right of former bank to return bills to depositor: *Conn v. Merchants Bank* (1879) 30 U. C. C. P. 380.

Section 127.—The day on which bank suspends is reckoned as the first day of the ninety days: *Mechanics Bank v. St. Jean* (1879) 9 R. L. 555.

Before the expiration of the ninety days a creditor may sue and get judgment: *Senecal v. Exchange Bank* (1884) M. L. R. 2 S. C. 107.

Section 128.—As to placing bank shareholders on the list of contributories in proceedings under the Winding-up Act (R. S. C. 1906, c. 144): see *Cloyes v. Darling* (1884) 16 R. L. 649.

A banker is a trader within the Insolvent Acts: *Bagwell v. Hamilton* (1864) 10 U. C. L. J. 305; *Duncan v. Smart* (1874) 35 U. C. Q. B. 532.

Reference at large is directed to the special provisions of the Winding-up Act respecting banks, and the cases there noted.

Section 130.—As to liability of prior and subsequent holders of stock within the 60 days mentioned: see *Re Central Bank, Baine's Case* (1889) 16 Ont. A. R. 237; *Re Central Bank, Henderson's Case* (1889) 17 Ont. R. 110; *Boulton v. Gzowski* (1898) 29 S. C. R. 54.

Section 131 (b). Crown's priority. See *Maritime Bank v. The Queen* (1888) 17 S. C. R. 657; *Exchange Bank v. The Queen* (1885), 11 A. C. 157.

OFFENCES AND PENALTIES.

Section 153.—As to procedure on indictments hereunder: see *Reg. v. Cotté* (1877), 22 L. C. J. 141; *Reg. v. Hincks* (1879), 24 L. C. J. 116; *Molleur v. Loupret* (1885) 8 L. N. 305.

Section 153 (2).—Directors may be held personally responsible for losses incurred through a statement which they know to be untrue, or where they are guilty of such gross negligence as to amount to fraud: *Parker v. McQuesten* (1872) 32 U. C. Q. B. 273; *McDonald v. Rankin* (1890) M. L. R. 7 S. C. 44; *Préfontaine v. Grenier*, 4 Que. P. R. 21. See also s. 413 of the Criminal Code, and the case of *The Queen v. Gillespie* (1898) 1 Can. Cr. C. 551.

UNDUE PREFERENCE TO CREDITORS.

Section 155.—See *Reg. v. Buntin* (1884), 7 L. N. 228 and 395.

And see generally the Bills of Exchange Act (R. S. C. 1906, c. 119.)

ANNOTATIONS.

CHAPTER 30.

Savings Banks.

PART I.

POST OFFICE SAVINGS BANKS.

Section 9 (Deposits exempt from attachment). Apart from this express provision for exemption from attachment, it is probable that a deposit of moneys in the hands of the Postmaster-General would be held to be exempt. See Chitty's Prerogatives of the Crown, p. 339.

Section 11 (Repayment of deposit). Defendants associated themselves together to conduct a savings bank, but before they were organized under 4 & 5 Vict. c. 33, their treasurer received a deposit from B. of £75, which he swore was made by B. with the express understanding that any person producing his pass-book should receive it. B. died, and this sum was afterwards paid to a connection of his, who presented the pass-book. The payment it appeared was made in pursuance of certain rules adopted by defendants, but which were not filed according to the statute for some months after. Held, that defendants were liable to B.'s administrator for the money: *Hunter v. Wallace* (1846), 14 U. C. Q. B. 205; *Lee v. Bank B. N. A.* (1879), 30 U. C. C. P. 255.

Savings bank pass-book—*Donatio mortis causa*. See *Perry v. Thorne*, 35 N. B. R. 398; *In re Reid*, 6 Ont. L. R. 421; *Spruce v. Edwards*, 25 C. L. T. (Occ. N.) 118; *Brown v. General Trusts Corporation* (1900), 32 Ont. R. 319.

PART III.

Section 45 (Execution of trusts). See *Thorne v. Perry*, 35 N. B. R. 398; *In re Reid*, 6 Ont. L. R. 421; *Spruce v. Edwards*, 25 C. L. T. (Occ. N.) 118; and see notes to s. 52 of the Bank Act (R. S. C., 1906, c. 29). ante.

Section 46 (Repayment of deposit). See note to s. 11, supra.

ANNOTATIONS.

CHAPTER 32.

Savings Banks in the Province of Quebec.

CALLS.

Section 12.—See s. 38 of the Bank Act (R. S. C. (1906) c. 29.) and notes.

Sections 14 to 17.—See ss. 36, 38, and 40 of the Bank Act and notes.

TRANSFER OF SHARES AND DEPOSITS.

Section 22.—See notes to ss. 47 and 53 of the Bank Act.

DEPOSITS AND LOANS.

Section 29.—See notes to s. 95 of the Bank Act.

Section 34.—Where there is no prohibition in the Act, a savings bank may, in virtue of its ordinary corporate powers, make loans of its own moneys. . . . Any one receiving money from a savings bank on a contract that is ultra vires, is bound to return it under Art. 1047 C. C. L. C.: *In re Langlais and La Caisse d'Economie* (1893) Q. R. 4 S. C. 65.

A savings bank loaned money upon the collateral security of letters of credit of the Quebec Government. The borrower having failed, the bank filed a claim on his estate, which was contested by other creditors on the ground that the bank was not authorized to lend on such security. Held, assuming that the loan was ultra vires, although this might affect the pledge as regards third parties interested in the securities, it was not, of itself and ipso facto, a radical nullity of public order of such a character as to disentitle the bank, under Arts. 989 and 990, C. C. L. C., from claiming the money with interest: *Bank of Toronto v. Perkins* (8 S. C. R. 903) distinguished: *Rolland v. La Caisse d'Economie* (1895) 24 S. C. R. 405.

Section 36.—Cf. section 80 of the Bank Act. A savings bank can only take security on real property subsequent to the date of a loan. A chattel mortgage cannot be taken as security at all: see *supra* s. 34.

Sections 37, 38, 39, and 40.—In the *Exchange Bank v. C. & D. Savings Bank* (1887) M. L. R. 6 Q. B. 196, it was held that a savings bank could not become a shareholder in a chartered bank, and so subject to double liability. But by s. 40, a savings bank now has power to purchase bank shares.

Section 41.—See s. 81 of the Bank Act, and note.

GENERAL PROVISIONS.

Section 50.—See ss. 52 and 96 of the Bank Act and notes.

OFFENCES AND PENALTIES.

Sections 59 and 61.—See s. 153 of the Bank Act and notes.

INDEX.

Numbers refer to sections of the Bank Act unless noted.

ACCOUNTS of Gov. S. B. to Minister of Finance, c. 30, s. 34.

fraud in, c. 30, s. 41.

ACT OF INCORPORATION of bank, see Charter.

AGENCY FEES, c. 29, s. 94.

ASSISTANT Receiver General, c. 30, s. 23.

ASSOCIATION

bank, definition of, c. 29, s. 2 (c).

existing, assuming work of penny bank, c. 31, ss. 28, 29, 30.

BANK

definition of, c. 29, s. 2 (a).

unauthorized use of title, c. 29, s. 156.

BANK ACT not applicable to penny banks, c. 31, s. 4.

BANK NOTES

advances on, not recoverable, c. 29, s. 63.

advertisement upon, prohibited, c. 29, s. 137.

amount of, c. 1, s. 18 (2) ; c. 29, s. 61 (3).

of Bank of B. N. A., c. 29, s. 61 (4).

counterfeit, stamping of, c. 29, s. 75.

currency of, c. 25, s. 8.

defaced or torn, not to be issued, c. 29, s. 72 (2).

defacing, penalty for, c. 29, s. 137.

denominations of, c. 1, s. 18 (2) ; c. 29, s. 61 (2).

calling in of, prohibited, c. 29, s. 61 (5).

excess in circulation of, c. 29, s. 135.

first charge on assets of insolvent bank, c. 29, s. 131.

forgery of, c. 146, s. 468 (r).

fraudulent issue or acceptance of, c. 29, s. 140.

issue of, c. 29, s. 61 (1).

after certificate has been obtained, c. 29, s. 14.

in British possession other than Canada, c. 29, s. 62.

no, by penny banks, c. 31, s. 27 (a).

no, by Quebec Savings Banks, c. 32, s. 49.

unauthorized, by others than banks, c. 29, s. 136.

payable at par throughout Canada, c. 29, s. 70.

pledging of, prohibited, c. 29, ss. 63, 139.

redemption of, c. 29, s. 71.

in Dominion notes up to \$100, c. 29, s. 72.

fund for, c. 29, s. 64.

of bank purchased by another bank, c. 29, s. 108.

of suspended bank, c. 29, s. 65.

signatures on, c. 29, s. 74.

BANK STOCKS, holding of, by Que. S. B., c. 32, s. 33.

BANKING powers must be expressly conferred, c. 1, s. 30 (2).

BILL OF LADING, definition of, c. 29, s. 2 (h).

BOARD, see directors.

BONDS, NOTES, etc., signature of, c. 29, s. 73.

BOOKS, etc., inspection of, by directors, c. 29, s. 56.

BRANCH, Gov. Savings Bank, c. 30, s. 24.

BRITISH COLUMBIA, bank of, c. 29, s. 5.

BRITISH NORTH AMERICA, bank of, c. 29, ss. 6, 7.

BUSINESS

conditions precedent to commencing, c. 29, s. 14.

definition of, c. 29, s. 76 (1).

prohibited, of banks, c. 29, ss. 76 (2), 146.

of penny banks, c. 31, s. 27.

of Quebec Savings Banks, c. 32, s. 36.

BY-LAWS

Bankers' Associations, c. 29, s. 124.

directors, of banks, c. 29, s. 29.

directors, of penny banks, c. 31, s. 16.

approval of members of penny bank, c. 31, s. 17.

shareholders', c. 29, s. 18.

CALLS ON MEMBERS of penny banks, c. 31, ss. 16 (j), 19.

CANADIAN BANKERS' ASSOCIATION, by-laws by, c. 29, s. 124.

CAPITAL STOCK

allotment of unsubscribed or increased, c. 29, s. 34.

amount of, c. 29, s. 10.

calls on, of Quebec Savings Banks.

deficiency of assets, in case of, c. 32, ss. 14-17, 64.

insolvency, in case of, c. 32, ss. 18, 58.

recovery of, c. 32, s. 13.

increase of, c. 29, s. 33.

Que. S. B. may hold certain shares, c. 32, s. 33.

reduction of, c. 29, s. 35.

subscription of, before first meeting, c. 29, s. 13.

CERTIFICATE FROM TREASURY BOARD

application for, c. 29, s. 14 (2).

conditions of, grant of, c. 29, s. 15.

for penny banks, c. 31, s. 9.

lapse of powers in default of, c. 29, s. 16.

necessary before commencing business, c. 29, s. 14 (1).

time for obtaining, c. 29, s. 15 (2).

CHARITABLE INSTITUTIONS, annual distribution by Quebec Savings Banks to, c. 32, s. 45.

CHARITY FUND of La Caisse d'Economie de N. D. de Quebec, c. 32, s. 47.

CHARTER

contents of, c. 29, s. 8.

continuation of certain charters, c. 29, s. 4.

continuation of Quebec Savings Bank, c. 32, s. 4.

forfeiture of, c. 29, ss. 4 (3), 127.

form of, c. 29, s. 9.

lapse of, in default of certificate, c. 29, s. 16.

CIRCULATION REDEMPTION FUND, c. 29, s. 64.

definition of, c. 29, s. 2 (a).

enforcement of payment into, c. 29, s. 69.

payment of, c. 29, s. 66.

regulation of, by Treasury Board, c. 29, s. 68.

repayment, if bank wound up, c. 29, s. 67.

COLLATERAL SECURITY of Quebec Savings Bank.

loan with, c. 32, s. 34.

loan without, c. 32, s. 35.

purchase of, by Quebec Savings Bank, c. 32, s. 40 (2).

realizing on, otherwise than by sale, c. 32, s. 40 (2).

sale of, c. 32, ss. 37, 38.

transfer of, without warranty, c. 32, s. 40 (1).

COLLECTION FEES, c. 29, s. 93.**COMMENCEMENT OF BUSINESS.**

- upon certificate from Treasury board.
- of banks, c. 29, s. 14.
- of penny banks, c. 31, s. 9.
- without authority, c. 29, s. 132.

CURATOR

- appointment of, c. 29, ss. 117, 118.
- by-laws subject to approval of, c. 29, s. 121.
- definition of, c. 29, s. 2 (d).
- officer to assist, c. 29, s. 120.
- powers and duties of, c. 29, s. 119.
- remuneration of, c. 29, s. 123.
- returns by, c. 29, s. 122.

DEPOSITS

- accounts, in Government Savings Bank, c. 30, s. 36 (b).
- penny bank with Government, c. 31, ss. 25, 26.
- acknowledgment of, in Post Office Savings Bank, c. 30, s. 7 (2).
- time for receipt of, c. 30, s. 8.
- address of depositor in Government Savings Bank, c. 30, s. 20 (1).
- in Quebec Savings Bank, c. 32, s. 28.
- amount of, in Post Office Savings Bank, c. 30, s. 6.
- by-laws, respecting, in penny banks, c. 31, s. 16 (1).
- certificate of Government Savings Bank, c. 30, s. 36 (c).
- depositor in Post Office Savings Bank, entry in his book, c. 30, ss. 7 (1), 8.
- as evidence, c. 30, s. 8.
- depositors, who may be in Government Savings Bank, c. 30, s. 29.
- disability of depositor in Quebec Savings Bank, c. 32, s. 29.
- disposal of, in penny banks, c. 31, ss. 25, 26.
- entry of, in Government Savings Bank, c. 30, s. 31 (1).
- evidence of claim to, in Government Savings Bank, c. 30, s. 31 (2).
- exempt in Post Office Savings Bank from seizure, c. 30, s. 9.
- interest on, in banks, c. 29, s. 92.
- in Government Savings Bank, c. 30, s. 43.
- in penny banks, c. 31, s. 23 (2).
- in Post Office Savings Bank, c. 30, s. 43.
- in Quebec Savings Bank, c. 32, s. 27.
- investment, forbidden by penny banks, c. 31, s. 27 (d).
- of, in Quebec Savings Bank, c. 32, s. 32.
- liability of Crown, in Government Savings Bank, c. 30, s. 32 (3, 4).
- liability of penny bank for re-payment to wrong person, c. 31, s. 24.
- maximum, in penny bank, c. 31, s. 23 (2).
- New Brunswick, Government Savings Bank deposit with collector of Customs in, c. 30, s. 26.
- Notice to depositor in Government Savings Bank, c. 30, s. 32 (2).
- personation of depositor in Quebec Savings Bank, c. 32, s. 60.
- receipt of, in Post Office Savings Bank, by postmasters, c. 30, s. 5.
- receiving of, by penny bank, c. 31, s. 23.
- re-ayment of, in Government Savings Bank, c. 30, ss. 33 (2), 35 (2).
- re-ayment by bank to heirs of deceased.

DEPOSITS—Continued.

- report of, in Government Savings Bank to Minister, c. 30, s. 32 (1).
- savings, returns by private persons and corporations, receiving, c. 33, s. 2.
- penalty for default, c. 33, s. 3.
- secrecy as to, in Government Savings Bank, c. 30, s. 30 (2).
- security against, in Quebec Savings Bank, c. 32, s. 31.
- special deposit accounts in Post Office Savings Bank, c. 30, s. 10.
- trustees, in banks by
- trusts, deposits in Quebec Savings Bank, subject to c. 32, ss. 50, 51.
- withdrawal of, by wrong persons from penny bank, c. 31, s. 24.
- in Government Savings Bank, c. 30, ss. 33 (2), 36 (a).

DIRECTORS

- branches of bank, for, c. 29, s. 30 (2).
- British subjects, majority must be in bank, c. 29, s. 20 (3).
- disqualification of, of Quebec Savings Bank, c. 32, s. 10.
- election of,
 - annual for banks, c. 29, ss. 18 (a, f), 21, 22, 23.
 - by-laws respecting penny bank, c. 31, s. 16.
 - eligibility of members of penny bank, c. 31, ss. 8, (3), 12 (2).
 - first, of bank, c. 29, s. 13.
 - failure to hold, c. 29, s. 27.
- for Quebec Savings Bank, c. 32, s. 9.
- failure to elect, of Quebec Savings Bank, c. 32, s. 11.
- management of penny bank affairs by, c. 31, s. 12 (1).
- offences by, of penny bank, c. 31, ss. 40, 41, 42.
- re-election for bank, c. 29, s. 19.
- tenure of office of, of penny bank, c. 31, s. 12 (2).
- vacancies among, of penny banks, c. 31, s. 12 (3).
- workers' association of penny bank to elect, c. 31, s. 22.
- inspection of books and accounts by, of bank, c. 29, s. 56.
- liability of,
 - if dividend impairs capital of bank, c. 29, s. 58.
 - insolvency of bank not to vary, c. 29, s. 129.
- loans or discounts to, of banks, c. 29, s. 18 (h).
- meetings of, of banks, c. 29, s. 28.
- number of, of banks, c. 29, s. 18 (a).
- powers of bank, general, c. 29, ss. 19, 29.
- provisional,
 - bank, c. 29, ss. 11, 12.
 - eligible for election on penny bank board, c. 31, s. 8 (3).
 - names of penny bank, in letters patent, c. 31, s. 7 (1).
 - number of, of penny bank, c. 31, s. 7 (3).
- qualification of,
 - of banks, c. 29, ss. 18 (d), 20.
 - of Quebec Savings Banks, c. 32, s. 9.
- quorum of, of bank, c. 29, s. 18 (c).
- removal of bank, for cause, c. 29, s. 31 (4, 5).
- remuneration of,
 - of banks, c. 29, s. 18 (9).
 - of penny banks, forbidden, c. 31, s. 15.
- statements by of banks,
 - annual, c. 29, s. 54.
 - special, c. 29, s. 55.

LOANS—Continued.

- shipbuilding, in aid of, by banks, c. 29, s. 85.
- timber, standing, by banks, c. 29, s. 84.
- unpaid vendor, prior claim of bank over, c. 29, s. 89 (2).
- wholesale dealer or manufacturer by bank, c. 29, ss. 88, 89.
- without collateral security by Que. S. B. c. 32, s. 35.

MANUFACTURER

- definition of, c. 29, s. 2 (i).
- loans by banks to wholesale, c. 29, ss. 88, 89.

MEETINGS

- annual, banks, c. 29, ss. 13 (2), 18 (a).
- annual, penny banks, c. 31, s. 13.
 - notice of, c. 31, ss. 13 (3), 14, 16 (f).
 - voting at, c. 31, ss. 13 (2), 16 (h).
- Quebec Savings Bank, notice of, c. 32, s. 5.
- special general bank, c. 29, s. 31.
- subscribers' bank, c. 29, s. 13.
- voting at bank, c. 29, s. 32.

MEMBERSHIP, penny bank.

- cessation of, c. 31, s. 20.
- liability of members, c. 31, s. 19.
- limitation of, c. 31, s. 19 (2).
- winding up of penny bank, effect of, c. 31, s. 21.

MISAPPROPRIATION of money by officer of P. O. S. B. c. 30, ss. 19, 20.**MONTREAL CITY AND DISTRICT SAVINGS BANK, charter continued, c. 32, s. 4.****MORTGAGES, see loans.****NAME OF PENNY BANK, c. 31, s. 7.****NOTICE, public, manner of giving, c. 29, s. 2 (2).****OFFENCES**

- bank, c. 29, s. 157.
- penny bank, c. 31, ss. 40, 41, 42.

OFFICERS

- appointment of, of banks, c. 29, s. 30 (1).
- by-laws respecting penny bank, c. 31, s. 16 (c, d).
- duties of bank, by-laws regulating, c. 29, s. 29 (1 b).
- false returns, etc.
 - by banks, c. 29, s. 153.
 - by penny banks, c. 31, ss. 41, 42.
- fraud by bank.
 - as to receipts for grain, c. 146, ss. 427, 428.
 - in issue of notes, c. 29, s. 138.
- issue of notes by banks.
 - fraudulently, c. 29, s. 140.
 - during suspension of bank, c. 29, s. 138.
- misfeasance by.
 - of Government Savings Banks, c. 30, s. 41.
 - of Quebec Savings Banks, c. 32, s. 59.
- moneys, unlawful disposal of, by penny banks, c. 31, ss. 40, 42.
- pledging notes of bank, c. 29, s. 139.
- salaries of bank, c. 29, s. 30 (3).
- security by.
 - bank, c. 29, s. 30 (4).
 - Government Savings Banks, c. 30, s. 28.
 - penny bank, c. 31, s. 16 (d).
- theft of effects of bank by, c. 146, s. 359 (b).
- undue preference to creditors of banks by, c. 29, s. 155.
- voting at meetings of banks, forbidden, c. 29, s. 32 (7).

PAYMENT at any Post Office Savings Bank, c. 30, s. 11.

PENALTIES; recovery and disposal of, c. 29, s. 158.

PENSION FUND, establishment of.

in banks, c. 29, ss. 18 (2), 129 (2).

in Quebec Savings Banks, c. 32, s. 48.

PERSONATION OF DEPOSITOR

in Government Savings Bank, c. 30, s. 42.

in Quebec Savings Bank, c. 32, s. 60.

POST OFFICE SAVINGS BANK accounts, c. 30, s. 12.

POOR FUND of Montreal, C. and D. Savings Bank, c. 32, s. 46.

POWERS

assuming work of penny bank, c. 31, ss. 28, 29, 30.

forfeiture of penny bank, if certificate not obtained, c. 31, s. 9 (3).

general of banks, c. 29, c. 76.

restrictions on penny bank, c. 31, s. 27.

PREFERENCE, undue to bank creditor, c. 29, s. 155.

PRESCRIPTION, not to run in favour of.

banks, c. 29, s. 126.

Quebec Savings Banks, c. 32, s. 3.

PRESIDENT AND VICE-PRESIDENT

casting vote of bank, c. 29, s. 28.

election of bank, c. 29, s. 24.

honorary president of bank,

election of, c. 29, s. 24 (2).

not included in, president, c. 29, s. 2 (j).

removal of bank, for cause, c. 29, s. 31 (5).

remuneration of bank, c. 29, s. 18 (1 g).

vacancy in office of bank, c. 29, s. 26.

PROMISSORY NOTES, loans on by penny banks, forbidden, c. 31, s. 27 (b).

PROOF IN ACTION FOR PENALTY re Post Office Savings Bank, burden of, c. 30, s. 21.

PROVISIONAL DIRECTORS

number and term of office of bank, c. 29, s. 11.

powers of bank, c. 29, s. 12.

PROXIES

record of bank, c. 29, s. 18 (b).

voting by bank, c. 29, s. 32.

PURCHASE OF ANOTHER BANK

agreement for, c. 29, s. 99.

execution of, by both banks, c. 29, s. 102 (1).
approval of.

by Governor in Council, c. 29, ss. 102 (2), 104.

conditions of, c. 29, ss. 106, 107.

evidence of, c. 29, s. 109.

by purchasing shareholders.

if capital increased, c. 29, s. 103.

by selling shareholders, c. 29, ss. 101, 102 (1).

consideration for, c. 29, s. 100.

increase of capital of purchasing bank.

approval of its shareholders, c. 29, s. 103.

approval of Governor in Council, c. 29, s. 104.

exemption from certain provisions, c. 29, s. 105.

liabilities and notes of selling bank, c. 29, ss. 107, 108.

vesting of assets in purchasing bank, c. 29, s. 110.

REAL ESTATE

disposal of penny bank, c. 31, ss. 33 (2), 36.

for actual use of bank, c. 29, s. 79.

DIRECTORS—Continued.

- vacancies among, of banks, c. 29, ss. 18 (e), 25.
- acts of majority in case of, c. 29, s. 25.

DISCOUNT, rate of in banks, c. 29, s. 91.

DISCOUNTS AND LOANS, amount of in banks, c. 29, s. 91.

DIVIDENDS

- capital of banks not to be impaired, c. 29, s. 58.
- declaration and notice of, of bank, c. 29, s. 57.
- places of payment of bank, c. 29, s. 36 (4, 5).
- Quebec Saving Bank, c. 32, s. 19.
- rate of bank, limitation of, c. 29, s. 59.
- trust, on bank shares held in, c. 29, s. 52 (2).
- unpaid bank, annual statement of, c. 29, s. 114.

DOMINION CHEQUES to be cashed at par by banks, c. 29, s. 98.

DOMINION NOTES

- payment in up to \$100 by banks, c. 29, s. 72 (1).
- notes to be clean, c. 29, s. 72 (2).
- redemption of, of banks, place of, c. 29, s. 60 (3).
- reserve of bank, part of, to be in, c. 29, s. 60 (1).
- supply of, to bank, c. 29, s. 60 (2).

ESTABLISHMENT OF

- Government Savings Banks, c. 30, s. 22.
- Post Office Savings Banks, c. 30, s. 4.

EXECUTOR, see Trust.

EXPENSES of Gov. S. B., payment of, c. 30, s. 35.

FALSE STATEMENT

- in chartered bank return, c. 29, s. 153.
- in documents of Quebec S. B., c. 32, s. 61.
- in security of banks, c. 29, s. 143.

FORGERY OF DEPOSITOR in P. O. S. B. book, etc., c. 30, s. 18.

GOODS, WARES AND MERCHANDISE

- definition of, c. 29, s. 2 (f).
- manufactured from articles pledged, c. 29, s. 89.
- prior claim of bank over unpaid vendor, c. 29, s. 89 (2).
- sale of, for non-payment of debt, c. 29, s. 89 (3).

GOVERNMENT, Dominion, cheques cashed at par by banks, c. 29, s. 98.

GUARANTEE FUND

- amount of penny bank, c. 31, s. 34.
- disposal of penny bank, c. 31, s. 36.
- establishment of penny bank, c. 31, s. 31.
- establishment of Que. S. B., c. 32, s. 48.
- investing of penny bank, c. 31, s. 33.
- nature of penny bank, c. 31, s. 32.
- winding up of penny bank not maintaining, c. 31, s. 35.

HOLIDAYS in respect to bills of exchange, c. 119, s. 43.

INCORPORATION

- of banks, c. 29, ss. 8, 11.
- of penny banks, c. 31, s. 5.
- date of, c. 31, s. 6 (2).
- notice of, in Canada Gazette, c. 31, s. 6 (1).
- recommendation of Minister of Finance, c. 31, ss. 5, 10 (2).

INSOLVENCY

- directors of banks.
- liability of, not diminished, c. 29, s. 120.
- refusing to make calls on shareholders, c. 29, s. 154.
- double liability of shareholders, c. 29, s. 125.

INSOLVENCY—Continued.

liability.

- bank's, c. 29, s. 126.
- directors', c. 29, s. 129.
- shareholders', c. 29, s. 125.

notes outstanding of bank.

- first charge on assets, c. 29, s. 131.
- redemption of, c. 29, s. 116.

statute of limitation not to apply to.

- banks, c. 29, s. 126.
- Quebec Savings Banks, c. 32, s. 3.

shareholders of banks.

- calls upon, c. 29, ss. 128, 130.
- double liability of, c. 29, s. 125.
- suspension for 90 days by bank constitutes, c. 29, s. 127.
- winding chartered bank up in case of, c. 144, ss. 8, 149-159.

INSPECTION of books and accounts of banks, c. 29, s. 56.**INSPECTORS of Government Savings Banks, c. 30, ss. 27, 36.****INTEREST****allowable on deposits in banks, c. 29, s. 92.**

- Government Savings Banks, c. 30, ss. 43, 44.
- Post Office Savings Banks, c. 30, ss. 43, 44.
- penny banks, c. 31, s. 23 (2).

chargeable by banks, limitation of, c. 29, s. 91.**payment of, by Government Savings Banks, c. 30, s. 35.****stipulation of rate of, c. 120, s. 2.****no stipulation of, c. 120, s. 3.****not stipulated per annum, c. 120, s. 4.****recovery of over payment, c. 120, s. 5.****INVESTMENT OF DEPOSITS in Quebec Savings Bank, c. 32, s. 32.****bank stocks, in, Quebec Savings Bank, c. 32, s. 33.****deposit in bank by Quebec Savings Bank, c. 32, s. 44.****JOINT HOLDERS of shares in Quebec Savings Banks, c. 32, s. 21.****LA CAISSE D'ECONOMIE de N. D. de Quebec, charter continued, c. 32, s. 4.****LETTERS PATENT of incorporation of penny banks, c. 31, s. 5.****irregularities not to render void, c. 31, s. 11.****particulars to be stated in, c. 31, s. 7.****LIABILITY FOR PAYMENT TO WRONG PERSON****Government Savings Banks, c. 30, s. 46.****Post Office Savings Banks, c. 30, s. 46.****Quebec Savings Banks, c. 32, s. 30.****LIEN OF BANKS****on debtor's shares, c. 29, s. 77.****on manufactures from articles pledged, c. 29, s. 89.****LIST of bank shareholders, annual, c. 29, ss. 114 (5), 150.****LOANS****collateral security by bank for.****mortgage, c. 29, s. 80.****stocks, negotiable security, etc., c. 29, s. 76 (1).****right of sale of, c. 29, s. 78.****warehouse receipt or bill of lading, c. 29, ss. 86, 87.****collateral security by Quebec Savings Bank, c. 32, s. 34.****false statement in bank instrument, c. 29, s. 143.****prohibited by banks, c. 29, s. 76 (2).****by penny banks, c. 31, s. 27 (b).****by Quebec Savings Banks, c. 32, s. 36.****shares of debtor, lien of bank on, c. 29, s. 77.**

REAL ESTATE—Continued.

holding of.

penny bank, c. 31, ss. 27 (c), 33.

Quebec Savings Bank, c. 32, ss. 42, 63.

loans by Quebec Savings Bank not to be upon, c. 32, s. 36.

otherwise acquired by bank, c. 29, ss. 81, 82.

for limited time only, c. 29, s. 82.

purchase of, when brought to sale by Quebec Savings Bank,
c. 32, s. 41.

subsequent security of, by Quebec Savings Bank, c. 32, s. 36.

title to, of Quebec Savings Bank, c. 32, ss. 42, 43.

REGULATIONS OF

Government Savings Banks by Governor in Council, c. 30,
ss. 36, 37, 38.

Post Office Savings Bank by Postmaster-General, c. 30, s. 14.

penny banks by Minister of Finance, c. 31, s. 10.

RESERVE

against deposits in.

Government Savings Banks, c. 30, s. 47.

Post Office Savings Banks, c. 30, s. 47.

bank, nature of, c. 29, ss. 60, 134.

RESTRICTION on powers of penny banks, c. 31, s. 27.

RETURNS

annual.

by Government Savings Banks to Parliament, c. 30,
s. 40.

by Post Office Savings Banks to Parliament, c. 30, ss.
16, 17.

list of bank shareholders, c. 29, ss. 114 (5), 150.

list of Quebec Savings Bank shareholders, c. 32, s. 53.

Parliament, to be laid before, by banks, c. 29, s. 114 (6).

by Quebec Savings Banks, c. 32, ss. 53, 54, 55, 62.

unclaimed balances in banks, c. 29, ss. 114 (1, 2, 4), 151.

unpaid drafts issued by banks, c. 29, ss. 114 (3, 4), 149.

evidence of date of transmission of bank, c. 29, s. 152.

false statement in.

bank, c. 29, s. 153.

penny bank, c. 31, ss. 41, 42.

monthly by.

banks, c. 29, ss. 112, 147.

Post Office Savings Banks, c. 30, s. 15.

Quebec Savings Banks, c. 32, ss. 52, 62.

savings deposits, by persons receiving, c. 33, s. 2.

penalty for default of, c. 33, s. 3.

semi-annual, by penny banks, c. 31, ss. 37, 38.

special to Minister of Finance by.

banks, c. 29, ss. 113, 148.

penny banks, c. 31, s. 39.

SECRECY

in Government Savings Banks, c. 30, s. 30 (2).

in Post Office Savings Banks, c. 30, s. 13.

SECURITY

by bank officers, c. 29, s. 30 (4).

by Government Savings Bank officers, c. 30, s. 28.

for loans, see loans.

SHAREHOLDERS

list of bank, for Parliament, c. 29, ss. 114 (5), 150.

list of Quebec Savings Banks for Parliament, c. 32, s. 53.

meetings of, see meetings.

SHARES

- amount of bank, c. 29, s. 10.
- calls on.
 - amount of bank, c. 29, s. 7.
 - deficiency of Quebec Savings Banks' assets in case of, c. 32, ss. 14-17, 64.
 - insolvency in case of.
 - bank, c. 29, ss. 128, 130.
 - Quebec Savings Banks, c. 32, ss. 18, 58.
 - interval between bank, c. 29, s. 38.
 - lost bank capital, to make up, c. 29, s. 39.
 - non-payment of bank, c. 29, ss. 40, 41.
 - notice of bank, c. 29, s. 38.
 - place of bank, c. 29, s. 37 (1).
 - recovery of.
 - bank, c. 29, ss. 40, 42.
 - Quebec Savings Bank, c. 32, s. 13.
 - time of bank, c. 29, s. 37 (1).
- cancellation of subscriptions for bank, c. 29, s. 37 (2, 3).
- joint holders, in Quebec Savings Banks, c. 32, s. 21.
- lien of bank on, for loans, c. 29, s. 77.
 - sale of such shares by bank, c. 29, s. 145.
- personal property, c. 29, s. 36 (1).
- transfer of
 - conditions of bank, c. 29, ss. 43, 45.
 - execution, of bank shares sold under, c. 29, s. 46.
 - fraudulent, of bank, c. 29, s. 133.
 - inspection of list by bank shareholders, c. 29, s. 44.
 - places for, of bank, c. 29, s. 36 (3).
 - Quebec Savings Banks, c. 32, s. 20.
 - suspension of bank, within 60 days of, c. 29, s. 130.
- transmission of, otherwise than by transfer.
- authentication of Quebec Savings Bank, c. 32, ss. 22, 26.
 - in foreign country, c. 32, s. 23.
 - payment made before, c. 32, s. 25.
- corroborative evidence *re* Quebec Savings Bank, c. 22, s. 24.
- death, by, of bank, c. 29, ss. 47, 49, 51.
- insolvency by, of bank, c. 29, ss. 47, 49.
- marriage of female bank shareholder, by, c. 29, ss. 47, 48, 49.
- Quebec Savings Bank, of, c. 32, s. 22.
- votes on, in Quebec Savings Banks, c. 32, s. 6.
- will or intestacy, by, of bank, c. 29, s. 50.
- trust, bank, held in, c. 29, ss. 52, 53.

STATUTES for bank shareholders of general meetings, c. 29, ss. 54, 55.

STATUTES OF LIMITATIONS not to run in favour of.

- banks, c. 29, s. 126.
- Quebec Savings Banks, c. 32, s. 3.

SUSPENSION OF PAYMENT

- curator, see curator.
- for 90 days, constitutes bank insolvent, c. 29, s. 127.
- notes of bank during, c. 29, s. 138.

TRADE, penny banks not to engage in, c. 31, s. 27 (c).

TRANSFER, see shares.

TRANSFER BOOKS, closing of bank, before dividend, c. 29, s. 57.

TREASURY BOARD, certificate by, for penny bank, c. 29, s. 9.

TRUST

- as to deposit, bank need not see to, c. 29, s. 96.
- as to shares, bank need not see to, c. 29, s. 52.
- in Government Savings Banks and Post Office Savings Banks,
c. 30, s. 45.

Quebec Savings Bank need not see to, c. 32, ss. 50, 51.

TRUSTEE, liability of, c. 29, s. 53.

TUTOR, see trust.

UNCLAIMED DIVIDENDS AND BALANCES, return of, by
banks, c. 29, ss. 114, 151.

Quebec Savings Banks, c. 32, ss. 54, 55, 62.

UNPAID DRAFT, return of, by bank, c. 29, ss. 114, 149.

UNPAID VENDOR, prior claim of bank over, c. 29, s. 89 (2).

VOTES

- on shares of Quebec Savings Banks, c. 32, s. 6.
- officers not to vote, c. 32, s. 8.
- proxies, c. 32, s. 7.

WAREHOUSE RECEIPT

- acquiring of, improperly, by bank, c. 29, s. 141.
- advances on security of, by bank, c. 29, ss. 86, 87.
- alienation by bank of goods secured by, c. 29, s. 142.
- definition of, c. 29, s. 2 (g).
- false statement in, c. 29, s. 143.
- sale, irregular by bank of goods secured by, c. 29, s. 144.

WHOLESALE dealer or manufacturer. See loans.

WINDING UP of insolvent.

bank, c. 144, ss. 8, 149-159.

Quebec Savings Banks.

- calls, powers of liquidators as to, c. 32, s. 58.
- moneys.

disposal of, c. 32, s. 57.

payable to Minister of Finance, c. 32, s. 56.

winding-up Act, application to.

penny banks, c. 31, s. 3.

Quebec Savings Banks, c. 144, ss. 6, 8.

WITHDRAWAL from Post Office Savings Banks, c. 30, s. 11.

WORKERS' ASSOCIATIONS of penny banks, c. 31, ss. 16 (k), 22.



